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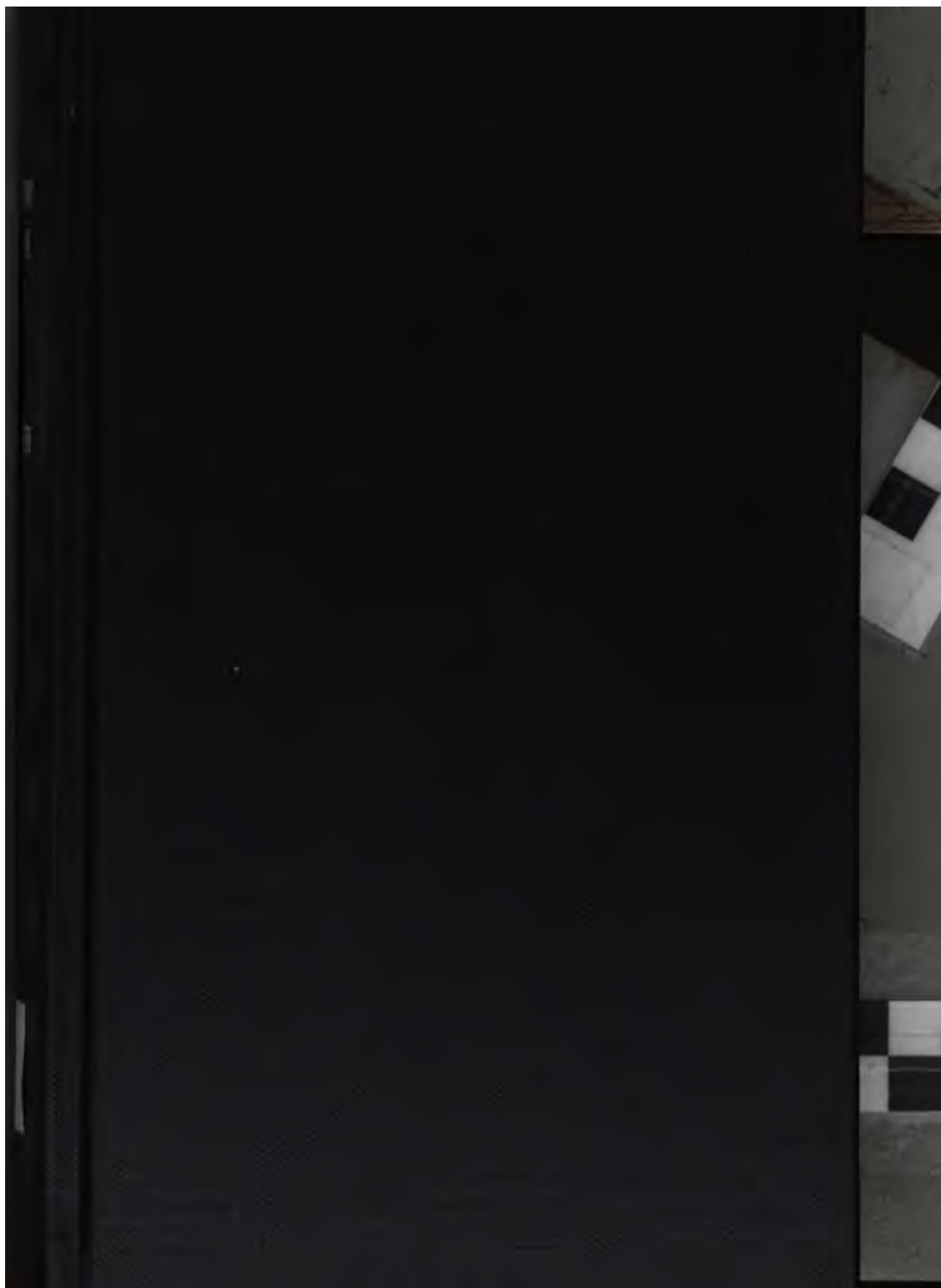
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THE  
HISTORY  
OF THE  
UNITED STATES OF AMERICA.

BY RICHARD HILDRETH.

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OF THE  
UNITED STATES OF AMERICA,  
FROM THE  
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TO THE  
END OF THE SIXTEENTH CONGRESS  
1788—1821.

*Revised Edition.*

IN THREE VOLUMES.  
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ADMINISTRATION OF WASHINGTON.  
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## ADVERTISEMENT.

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THE History of the United States naturally divides itself into two principal parts. The first, colonial and revolutionary; the second, embracing the period subsequent to the adoption of the Federal Constitution.

Having already sketched in three volumes the story of the colonial and revolutionary times, I have been encouraged to enter, somewhat more at large than I had originally intended, upon the history of the second period—that part of it, at least, which the lapse of time has so far thrown into perspective as to enable it to be comprehended by the historic eye, not as a fragmentary series of events, but, to a certain extent, as a finished whole.

Such is the case with the first generation subsequent to the adoption of the Federal Constitution, including the origin, policy, conflicts, mutations, and final dissolution of the two parties known as Federalists and Republicans, or Democrats; a period of struggles within, and of dangers from without, during which the tenacity of the American Union and the strength of the federal government were subjected to repeated and trying tests

In dealing with our colonial and revolutionary annals, a great difficulty had to be encountered in the mythic and heroic character above, beyond, often wholly apart from the truth of history, with which, in the popular idea, the fathers and founders of our American Republic have been invested. American literature having been mainly of the rhetorical cast, and the Revolution, and the old times of the forefathers, forming standing subjects for periodical eulogies, in which every new orator strives to outvie his predecessors, the true history of those times, in spite of copious cotemporary records, such as the infancy of no other nation can show, illustrated by the labors of many diligent and conscientious inquirers, has yet been almost obliterated by declamations which confound all discriminating and just appreciation in one confused glare of patriotic eulogium.

To pass from these mythical and heroic times to those which form the subject of the present volumes is like suddenly dropping from the golden to the brazen and iron ages of the poets. Of this period, as of the other, the current notions are principally derived from rhetorical effusions, but effusions in which the damnatory element comes to bear much the larger proportion — the little knowledge generally possessed of it being mainly imbibed from political writers, themselves often ill informed, and whose object it generally is to serve some temporary party purpose by reviving old prejudices and misapprehensions fast becoming obsolete. It is, indeed, most curious to observe, as to

certain personages conspicuous as well in revolutionary as in subsequent times, how, in the passage from the one period to the other, they are suddenly stripped, in the popular mind, of that superhuman magnanimity and disinterestedness so commonly ascribed to all the men of the Revolution, becoming thenceforth mere ordinary mortals, objects of sharp, bitter, and often unmerited obloquy.

It has been my earnest endeavor, now, as formerly, guarding, so far as might be, against these current illusions, to present, through a pure medium of impartial truth and justice, the events and characters of the times of which I write, undistorted by prejudice, uncolored by sentiment, neither tricked out in the gaudy tinsel of a meretricious rhetoric, nor stretched nor shortened to suit the purposes of any partial political theory.

Yet the nature of the subject and the extended method of treatment—the chief interest of the narrative being now mainly concentrated upon a few leading and conspicuous characters, whose personal qualities and particular views come to exercise a not inconsiderable influence over the progress of affairs, and whose opinions and actions are dwelt upon at length—must naturally give to some portions of the present work somewhat more of an emotional character than was consistent with the multiplicity and rapid succession of events in the former volumes, and the reduced scale upon which almost every thing had in consequence to be exhibited. Very likely the charge of partisanship may now be urged by some of those same

critics who thought those volumes too apathetic and coldly impartial. For, though both works have been written in the same spirit, and, with allowances for the variations above pointed out, on the same plan, a few figures, large as life, and kept for a length of time before the eye, though the general style of art be in no respect different, will naturally produce a different effect from numerous groups, mostly in miniature, succeeding each other with panoramic rapidity.

The present volume embraces the administration of Washington, a period of the greatest importance, as having fixed upon the federal government that character and those methods of administration which it has ever since retained; important, also, for the origin and array of the party divisions which form a chief subject of the entire work.

The second volume will include the administration of John Adams; the downfall of the Federalists; the transfer of power to the Republican party by the election of Jefferson; and his administration, starting with the proposal to reduce exercises of federal authority to a minimum, a proposal followed up by the purchase and annexation of Louisiana, unconstitutional and unauthorized, according to the Republican doctrine, yet carried through by Jefferson and his party on the very principle of the Federalists, of assuming all power necessary for the public welfare; to which soon after succeeded, on the same principle, other stretches of authority over commerce and the internal

industry of the country, far beyond any thing upon which the Federalists had ever ventured.

The third volume, commencing with those very extraordinary measures of the embargo and non-intercourse, will exhibit, in relating the administration of Madison, the theories of the two political parties brought to the test of a severe experience, by which both the one and the other, but especially the dominant party, were driven to occupy, in a great measure, the very position of their political opponents—a change of ground which, in combination with other causes, produced a complete extinction, during Monroe's first term, of the old party divisions so far as they were grounded upon any thing more than mere personal and local antipathies; which, indeed, had exercised from the beginning an influence over our national politics by no means inconsiderable.

These three volumes, while they serve as a continuation of the three already published, will, like those, constitute also a separate work, complete in itself.

*Oct. 1, 1850.*

Advantage has been taken of a new edition to introduce a number of corrections. Some obscurities of expression have been cleared up, and some matters of fact set right; as to which I have received material assistance from several gentlemen otherwise unknown to me, but whose kindness in supplying my deficiencies by their better knowledge has laid me under lasting obligations

*April 30, 1853.*



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[A complete Analytical Index will be found at the end of the third volume.]

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# HISTORY OF THE UNITED STATES.

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## CHAPTER I.

FEDERALISTS AND ANTI-FEDERALISTS. FIRST SESSION OF THE FIRST CONGRESS. INAUGURATION OF THE NEW GOVERNMENT. REVENUE SYSTEM. EXECUTIVE DEPARTMENTS. POWER OF REMOVALS FROM OFFICE. FEDERAL JUDICIARY. AMENDMENTS OF THE CONSTITUTION. NORTHWEST TERRITORY. SALARIES. SEAT OF GOVERNMENT.

**T**HE whole people of the United States, on the ques-  
tion of ratifying or rejecting the Federal Constitution, CHAPTER I  
had been suddenly arranged, for the first time, into two 1787.  
definite and well-marked political parties; and into this  
new array of national politics were speedily absorbed all  
the various local parties by which, since the conclusion  
of the Revolutionary struggle, the states had all been  
more or less agitated, some of them even to the pitch of  
insurrection and civil war.

In most of the towns and cities, the seats of trade and  
mechanical industry, the friends of the new Constitution  
formed a very decided majority. Much was hoped from  
the organization of a vigorous national government, and  
the exercise of the extensive powers vested in it for the  
regulation of commerce. Boston, Baltimore, and Charles- 1788.  
ton celebrated in turn, and with no little pomp, the ac-  
ceptance of the new system by the states to which they  
belonged. The ratification of the Federal Constitution

CHAPTER I  
by ten State Conventions, at the dates and by the majorities expressed in the following table—

1788.	1787, Dec. 3, Delaware .....	unanimously;
	Dec. 13, Pennsylvania .....	46 to 23;
	Dec. 19, New Jersey .....	unanimously;
	1788, Jan. 2, Georgia .....	unanimously;
	Jan. 9, Connecticut .....	128 to 40;
	Feb. 6, Massachusetts .....	187 to 168;
	April 28, Maryland .....	63 to 12;
	May 23, South Carolina .....	149 to 73;
	June 21, New Hampshire .....	57 to 46;
	June 25, Virginia .....	89 to 79—

having made it certain that the new government would go into operation, the approaching anniversary of the national independence was selected in Philadelphia for duly celebrating an event in which that city felt indeed a peculiar interest, because it looked forward to becoming the national capital.

July 4. The ten ratifying states were represented by as many ships moored at intervals in the Delaware, along the front of the city, each displaying at its mast-head a broad white flag, bearing the name of the state represented emblazoned in gold. All the vessels in the river were gayly dressed in flags and streamers. The procession which marched through the streets was almost a masquerade. Independence, the French Alliance, the definitive Treaty of Peace, Washington the Friend of his Country, the New Era, the Federal Constitution, the Ten Ratifying States, were personated by some of the principal citizens, in appropriate dresses. The new Constitution was personified by a lofty ornamental car in the form of an eagle, drawn by six horses. Chief Justice M'Kean and two of his associates on the bench of the Supreme Court of Pennsylvania were seated in this car, bearing the Constitution framed and fixed upon a staff, the staff itself crowned with the cap of liberty, and "the people," in golden letters, written on it as a legend. A

citizen and an Indian chief riding together in an open carriage, and smoking the calumet, personified peace on the frontiers. The Society for the Promotion of Manufactures was preceded by a carriage bearing a stage, on which were represented the processes of carding and spinning cotton by hand machinery, then lately invented and just introduced into the United States. Similar societies had lately been established in Boston and New York, a great interest having been recently awakened in the promotion of domestic manufactures. A carriage drawn by ten white horses, and escorted by the carpenters, bore the model of a grand federal edifice, supported by thirteen columns, ten complete and three unfinished. The pilots, ship-carpenters, boat-builders, and other trades connected with navigation surrounded a miniature vessel, the federal ship Union, mounting twenty guns, and manned with a crew of twenty-five men. A sheet of canvas tacked along the water-line, extending over a light frame, and painted to represent the sea, concealed the carriage on which the vessel was drawn and helped to carry out the illusion. The procession, including all the trades, the military, and the public functionaries, counted upward of five thousand persons, recorded in the periodicals of the day as an immense and unprecedented number. Having traversed the city, it proceeded to Union Square, where a crowd of seventeen thousand persons was collected. After an oration by Wilson, whose share in framing the Constitution, and in defending it before the Convention of Pennsylvania, had been so distinguished, the assembled multitude partook of a bountiful collation. Every thing was conducted with the greatest order and decorum. "It was very remarkable," says an eye-witness, "that every countenance wore an air of dignity as well as of pleasure. Every tradesman's



CHAPTER I  
boy in the procession seemed to consider himself as a principal in the business. Rank for a while forgot its 1788. claims, and agriculture, commerce, and manufactures, together with the learned and mechanical professions, seemed to acknowledge, by united harmony and respect, that they were all necessary to each other, and all useful in cultivated society. These circumstances distinguished this procession from the processions in Europe, which are commonly instituted in honor of single persons. The military alone partake of the splendor of such exhibitions. Farmers and tradesmen are either deemed unworthy of such connections, or are introduced like horses or buildings, only to add to the show or length of the procession. Such is the difference between the effects of republican and monarchical government upon the minds of men."

Wilson dwelt with emphasis, in his oration, upon the peculiar origin and popular sanction of the new federal government. "Delegates were appointed to deliberate and propose. They met and performed their delegated trust. The result of their deliberations was laid before the people. It was discussed and scrutinized in the fullest, fairest, and severest manner, by speaking, by writing, by printing, by individuals, and by public bodies, by its friends and its enemies. What was the issue? Most favorable, most glorious to the system! In state after state, at time after time, it was ratified, in some states unanimously, on the whole by a large and most respectable majority." On occasions like this, in the celebration of all party triumphs—for the policy of adopting the Federal Constitution was as yet a party question—more or less of exaggeration is usually indulged in. Of this privilege Wilson had not hesitated to avail himself; for it was exceedingly doubtful whether, upon a

fair canvass, a majority of the people, even in the ratifying states, were in favor of the new Constitution. The <sup>CHAPTER</sup>  
 enthusiasm of Philadelphia was by no means a test even 1788.  
 of the feeling of Pennsylvania. That state had, indeed, been the second to ratify; no amendments had been proposed by the Convention; the majority seemed to be decisive. But, to judge from a protest put forth by the minority, the opinion of the people was far from having been clearly or decisively expressed. It was maintained in this protest that the Ratifying Convention had been illegally constituted. The resolution introduced into the Assembly for holding that Convention had allowed a period of only ten days within which to elect the members of it; and the minority in the Assembly had been able to find no other means of preventing this precipitation, except by absenting themselves, and so depriving the House of a quorum. But the majority were not to be so thwarted; and some of these absentees, so the protest alleged, had been seized by a mob, forcibly dragged to the House, and there held in their seats, while the quorum so formed gave a formal sanction to the resolution. Such was the color given to an exercise of the Assembly's right to compel the attendance of its members. They added, that out of seventy thousand voters in the state, only thirteen thousand had taken part in the choice of the late Ratifying Convention.

The day so unanimously celebrated in Philadelphia became the occasion elsewhere of very violent exhibitions of party feeling. The people of Providence, in Rhode Island, like those of most of the commercial towns, were in favor of ratifying, and had resolved to add to the usual commemoration of the 4th of July rejoicings that the Federal Constitution was to go into effect. But this intention was defeated by a mob of a thousand men

CHAPTER I. from the neighboring country towns (some of them armed, headed by a judge of the Supreme Court), who compelled the people of Providence to strike out from their programme all reference to the Federal Constitution. A still more violent collision took place in Albany. The friends of the Constitution, the day before, on receiving news of the ratification by Virginia, had celebrated that event by a procession and a salute of ten guns. Those of the opposite party showed their chagrin by meeting the next morning and burning the Constitution. Both parties united during the forenoon in the customary celebration of the anniversary of independence, but separated to dine at different places. After dinner the friends of the Constitution formed a new procession, escorted by some military companies. As they passed the head-quarters of the other party, an altercation arose, ending in a conflict in which clubs and stones, and presently swords and bayonets, were freely used, resulting in severe injuries to several persons.

Some three weeks after the Philadelphia celebration a similar pageant was got up in New York, that city, like Philadelphia, being decidedly in favor of the new Constitution, and hoping also, like Philadelphia, to become the seat of the national government, as it then was of the Continental Congress. One of the newspapers, Greenleaf's Political Register, the same afterward known as the Argus, and presently chief organ in New York of opposition to the federal administration, gave a somewhat disparaging account of this procession, and indulged in some jocular remarks on an accident which happened to a part of it. A night or two after, news having arrived that the Constitution had been ratified by the New York State Convention at Poughkeepsie, a mob attacked the obnoxious printing-office, broke the doors and windows, and destroyed the type.

The high pitch of political passion to which the public mind had been raised during the war of the Revolution had by no means, as yet, entirely subsided. During that impassioned and protracted struggle, imprisonment, banishment, confiscation, even death itself, had been occasionally visited upon political opponents. When men to whom such extremities had grown familiar came to differ among themselves on a question so important as the future national government of the Union, at a period, too, when even the state governments were surrounded with embarrassments, and seemed almost in danger of dissolution, a wholesome moderation and a charitable estimate of each other's motives and intentions, however much to be desired, was hardly to be hoped for.

The friends of the new Constitution, taking for themselves the title of **FEDERALISTS**, bestowed that of **ANTI-FEDERALISTS** on their opponents. Those opponents insisted, however, that these names, if interchanged, would have been much more appropriately applied. The new Constitution, aiming, as it did, at a self-sustaining national government, was, they insisted, something more than federal, and its supporters, therefore, more than Federalists—a name which might, with more justice, have been given to those who preferred a really federal compact. The name of anti-Federalists would seem to imply opposition to the union of the states; but by most of that party any such imputation was very warmly disclaimed. So far from being opposed to the Union, they declared themselves willing to make great sacrifices to maintain it. Notwithstanding the slight ebullitions of feeling already noticed—so slight that history has almost forgotten to record them, but important as showing the actual state of the public mind—no disposition was any where evinced to resist the will of the majority as

CHAPTER I. declared in legal form. In all the ratifying states the anti-Federalists expressed their readiness to aid, in good faith, in putting the new system into operation. But they insisted with great vehemence on the absolute necessity of immediate amendments, which had, indeed, been recommended by four out of the ten ratifying conventions, or five out of eleven, counting New York.

While giving a reluctant assent to the Constitution as it stood, the New York Convention had addressed a circular letter to the other ratifying states, in which they declared that several articles appeared so exceptionable to a majority of their body, "that nothing but the fullest confidence of obtaining a revision of them by a General Convention, and an invincible reluctance to separate from their sister states, could have prevailed on a sufficient number to ratify without stipulating for previous amendments;" and they recommended to the states to make immediate application to the new Federal Congress presently to meet, that a new constitutional convention might be forthwith authorized under the provision to that effect contained in the Constitution.

Sept. 5. This New York circular was soon responded to by a meeting held at Harrisburg, in Pennsylvania, consisting of delegates elected by the anti-Federalists in the different parts of that state. The proposal for a new Federal Convention was warmly seconded, and a list of the amendments deemed essential was agreed to. The only person as yet conspicuous in the history of Pennsylvania whose name appears among the members of this Convention, was the venerable George Bryan, one of the judges of the Supreme Court, and late vice-president of the state, always a warm partisan of the old constitutional or ultra-liberal party. Albert Gallatin, an emigrant

from Switzerland, destined presently to political celebrity, CHAPTER  
L  
was also a member.

The Virginia Assembly, at their annual meeting, gave 1788  
the sanction of their authority to the numerous amend- Nov. 20  
ments to the Federal Constitution already suggested by  
the Virginia Convention. They also passed an act, dis-  
qualifying all persons on whom any lucrative office might  
be conferred, under the new Federal Constitution, from  
holding any office under the state, except in the militia  
or as county magistrates. In response to the New York  
circular, they prepared an address to the Federal Con-  
gress about to meet, calling for a new Federal Conven-  
tion to revise the Constitution. "At the same time,"  
says this address, "that, from motives of affection to our  
sister states, the Virginia Convention yielded their as-  
sent to the ratification, they gave the most unequivocal  
proof that they dreaded its operation under the present  
form. In acceding to the government under this im-  
pression, painful must have been the prospect, had they  
not derived consolation from a full expectation of its im-  
perfections being speedily amended." For a detail of  
their objections, involving, as they alleged, "all the great  
and unalienable rights of freemen," they refer to the pro-  
ceedings of the late Convention and their own resolu-  
tions, at the same time declaring their opinion that, "as  
these objections are not founded in speculative theory,  
but are deduced from principles which have been estab-  
lished by the melancholy example of other nations in  
different ages, so they will never be removed till the  
cause itself shall cease to exist." "The sooner, there-  
fore, the public apprehensions are quieted, and the gov-  
ernment is possessed of the confidence of the people, the  
more salutary will be its operation, and the longer its  
duration. The cause of amendments we consider as a

CHAPTER common cause; and since, from political motives, con-  
L cessions have been made which we conceive may en-  
1788 danger the republic, we trust that a commendable zeal  
will be shown for obtaining those provisions which ex-  
perience has taught us are necessary to secure from dan-  
ger the unalienable rights of human nature." A letter  
to the ratifying states, similar in its import to this ad-  
dress to Congress, was also agreed to, and a special let-  
ter to Governor Clinton, in answer to the New York  
circular.

The project of a new convention, thus patronized by  
New York and Virginia, of course received a strong  
support from the two states of North Carolina and Rhode  
Island, and their sentiments had, perhaps, still greater  
weight from the circumstance that both had declined to  
come in under the present Constitution. North Carolina  
had ratified, but only on condition of the adoption of  
certain specified amendments. In Rhode Island the Con-  
stitution had been submitted, not to a general conven-  
tion, as its friends desired, but separately to the several  
towns, by a majority of which it had been rejected.  
Both in North Carolina and Rhode Island the great dif-  
ficulty was the state paper money. Nor was this the  
only mischief thereby occasioned. The Rhode Island  
tender law, compelling creditors to accept payment in  
the state paper on pain of forfeiting all their claims, had  
been resented in Massachusetts and Connecticut by laws  
prohibiting the courts of those states to entertain any  
suits brought to recover debts by citizens of Rhode Isl-  
and. That law was also the cause of violent party di-  
visions within the state. The Legislature had created a  
special tribunal to proceed summarily, without juries, for  
the infliction of penalties on those who refused to take  
the paper money. This tribunal the Supreme Court of

the state had pronounced unconstitutional. The Quakers, a numerous and influential sect, had petitioned in a body against the Tender Act. The Cincinnati of Rhode Island indignantly expelled one of their members, who had availed himself of it to discharge a specie debt. But the system was still maintained, and was presently carried out to its ultimate object by the discharge of the last installment of the state debt, the paper being depreciated to ten or eleven for one, and the public creditors obliged to take it or to forfeit their claims. An explanation of these proceedings may be found in the extreme poverty to which Rhode Island, always greatly dependent on trade, had been reduced in the course of the Revolutionary war, a depression out of which she had not yet recovered. A large proportion of her citizens were insolvent, and this paper money system, in its operation upon private contracts, was not materially different from the insolvent laws of the present day. As respected the public debt, it fell short of repudiation, operating like those compositions with their creditors into which it has not been uncommon for states to enter, and instances of which have been recently seen.

In Massachusetts, as well as in Virginia, New York, and Pennsylvania, the federal majority was very uncertain. Indeed, it may well be questioned whether in either of those four great states there was actually any federal majority at all. New Hampshire and South Carolina were equally doubtful; nor could Georgia be depended upon. It was only in Connecticut, Delaware, New Jersey, and Maryland, all of which, in the Convention, had supported, at first, the State Rights view, and had opposed the formation of a national government, that the Constitution, now that it was adopted, seemed certain of steady support.



CHAPTER  
I

With such a prospect before them, the proposal for a new convention excited in the minds of the Federalists the liveliest alarm. The late Federal Convention, though nominally called to amend the Articles of Confederation, had ended in producing a system entirely new. Who could tell that a second convention might not totally undo all the labors of the first? The more moderate partisans of the new system were willing to admit that, for the sake of peace and conciliation, it might, perhaps, be wise for Congress to recommend, and for the states to adopt, some of the suggested amendments, such of them, at least, as, without changing any part of the federal machinery, went no further than a declaration of rights. The more strenuous insisted that no change whatever ought to be made till the Constitution had first been tried. All agreed in regarding the proposal of a new convention as insidious, and dangerous in the highest degree.

Though in Massachusetts, as well as in Virginia, the ratification of the new Constitution had been carried with very great difficulty, and by a very slender majority, yet the position of parties in these two leading states was entirely different; so much so as soon to place them in decided and permanent political opposition. In Massachusetts, the weight of talent, wealth, and influence was altogether on the federal side. The anti-Federalists were destitute of organization and of leaders, most of those who soon became so being restrained at present by having committed themselves in favor of the Constitution. The Federalists controlled the state Legislature, and the whole weight of the state government was thrown decidedly into that scale.

Very different was the position of parties in Virginia. The anti-Federalists had able leaders: at their head,

Patrick Henry, whose influence over the Assembly was very predominant. Many of the great planters were on that side, and the backwoods population almost universally so. What tended to strengthen the anti-Federal party in Virginia was the large amount of old debts due to British merchants, for enforcing the payment of which it was feared the new Constitution would furnish additional facilities. These debts, estimated by Jefferson as high as ten millions of dollars—as much as was due from all the other states put together—had originated in advances made in colonial times by British merchants for the purchase of slaves and for plantation supplies, in return for which the planter had been obliged to consign all his produce to be sold on commission by the house making the advance. “These debts,” says Jefferson, “had become hereditary from father to son for many generations, so that the planters were a species of property annexed to certain mercantile houses in London.” The idea of being again subjected to this thralldom, or, at least, compelled to square up the old accounts, had a very great influence in diffusing and upholding anti-Federal ideas, not only in Virginia, but through the whole South, from which the other ten millions were principally due. Instead of having on their side almost the entire talent, wealth, and intelligence of the state, as was the case in Massachusetts, the Federalists of Virginia could boast of only a share, while the mass of the population was against them. The anti-Federalists had the control of the state Legislature, as appears, indeed, by the proceedings already quoted, and Virginia accordingly took her place at the head of the anti-Federal party of the nation.

Next to Virginia, the anti-Federalists were strongest and most ably led in New York; and thus early were

CHAPTER I.  
combinations formed which have influenced the politics of the Union even to the present day. The tendency, 1788. indeed, of New York to a close political sympathy with Virginia and the Southern States, as against New England, had made itself visible at an early period of the old confederation, having naturally grown out of a certain resemblance in institutions and manners, which, in New York and the South, had much more of an aristocratic cast than in New England. At the head of the anti-Federalists of New York was George Clinton, governor of that state ever since the state Constitution had been formed, a man of great energy and firmness, and possessing great weight with the mass of the people. The secret of Clinton's anti-Federalism was simply this. The unrivaled advantages for trade which New York possessed in her admirable sea-port at the mouth of the Hudson not only secured to her the certainty of an ample revenue by imposts upon commerce, but the power also, more than once exercised during colonial times, of levying tribute on her neighbors. With a feeling of state pride and state selfishness, more excusable than wise or commendable, many of the New Yorkers were unwilling to surrender this great power over commerce and their neighbors. Hence the opposition which Clinton had always made to the grant of the continental impost; and when the defeat of that grant had contributed, by an operation as little wished as expected, to give birth to the Federal Constitution, his no less determined opposition to that. The city of New York and the southern counties, persuaded that the prosperity of the state would be far more certainly secured as a member of the Union than by entering into a struggle for commercial supremacy, were strongly federal. But the governor was zealously supported by the northern and western counties,

and a fair proportion of the ablest men in the state coincided with his views. The New York Senate had a majority of Federalists, but the other party predominated in the Lower House. Clinton called an extra session of the Legislature to take such steps as had become necessary toward carrying the Federal Constitution into effect. The state was divided into districts for the choice of representatives to Congress, but as to the choice of senators and presidential electors, the two houses could not agree. The Assembly wished to choose them by joint ballot, which method would have insured the election of two anti-Federal senators; the other house insisted upon their concurrent right, offering, however, to compromise upon any method which would secure to them the nomination of one senator and half of the electors. Finally, the Legislature separated without coming to any agreement; in consequence of which, New York did not vote at the election of president, nor had she during the greater part of the first session of Congress any representatives in the federal Senate.

There were in Pennsylvania, as we have seen already, some very warm and active opponents of the new Federal Constitution. The leaders of what was known in that state as the Constitutional party, the advocates of the then existing state Constitution, were generally inclined to the anti-Federal side. But those leaders, at present, were in a minority; as yet the masses remained quiescent; and under the guidance of the opponents of the existing state Constitution, the Republican party, as they called themselves, a name presently merged in that of Federalist, Pennsylvania took her old position, as under the Confederation, by the side of Massachusetts as against Virginia and New York.

In all the ratifying states, New York excepted, presi-

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\_\_\_\_\_dential electors were duly appointed. In Virginia the choice was given to the people, the state being divided

1788. into districts for that special purpose. In Massachusetts the people of each congressional district were authorized to nominate three candidates, from whom the Legislature was to select one, besides two additional electors to be chosen from the citizens at large. Generally the choice was by the state Legislatures, in some states by concurrent vote of the two branches, in others by joint ballot.

1789. Feb. The electors thus chosen met in their respective states on the day appointed by the Continental Congress, and discharged their functions according to the method prescribed by the Constitution. Meanwhile elections of senators and representatives were going on in the different states. Quite a number of those chosen to constitute the new national Legislature already enjoyed a continental reputation ; but, as always happens in such cases, the choice was rather directed by present considerations than by past services. Neglecting some more familiar names, Massachusetts selected as her representatives in the Senate Tristram Dalton and Caleb Strong, the latter a member of the late Federal Convention, and active in state affairs throughout the Revolution. Virginia was represented by Richard Henry Lee, the old Revolutionary leader, and William Grayson, an active opponent of the Federal Constitution in the Virginia Convention. Madison was a candidate, but lost his election by eight votes, Henry having uttered a philippic against him in the Assembly. These two Virginians were the only professed anti-Federalists elected to the Senate. Of senators already known for their services in the Revolution or as members of the late Federal Convention, there were, from the other states, John Langdon, of

New Hampshire; Oliver Ellsworth and William S. Johnson, of Connecticut, the latter lately appointed CHAPTER  
I.  
President of Columbia College in the city of New York, 1789  
an office which his father had filled before him; William Patterson, of New Jersey; Robert Morris, of Pennsylvania; George Read, of Delaware; Charles Carroll, of Maryland; Pierce Butler, of South Carolina; and William Few, of Georgia.

The new Constitution provided that the senators should be chosen by the state Legislatures, but this provision was not free from ambiguity. Did the governors constitute a part of the Legislatures, and was their assent necessary to the choice? This question, if raised at all, which hardly appears, was settled at once against the governors' right. Indeed, at that moment it was of little consequence, except in Massachusetts, that being the only state in which the governor was allowed, as yet, any veto power on the passage of legislative acts. Supposing the choice to be vested in the state assemblies independently of the governor, should it be made by concurrent vote, that is, by each house acting separately, and having a negative on the other, or by joint ballot of both houses meeting together and voting as one body, the general practice where the election of state officers was vested in the assemblies? This question, which had prevented, at first, any choice in New York, was decided differently in different states, and both methods, that by joint ballot and that by concurrent vote, have continued to prevail to the present day. The method by joint ballot, which has at least the advantage of insuring a choice, has, however, been generally adopted. The New York Federalists, though they failed, in spite of the greatest efforts, in defeating the re-election of Governor Clinton, succeeded, at a new state

CHAPTER I election, in obtaining a majority in both branches of the Legislature, when they chose as senators General Schuyler and Rufus King, the latter a recent immigrant from Massachusetts, which state he had represented in the Federal Convention, but married to the daughter of a wealthy New York merchant.

In several of the states, Massachusetts especially, the election of members of the House of Representatives was very warmly contested. Though Samuel Adams was claimed by the Federalists as of their party, and had, in fact, in the State Convention, voted for ratifying, yet he, as well as Governor Hancock, was an advocate for amendments, and the Federalists, who knew that his talent was greater for pulling down than for building up, did not choose to trust him as a representative to Congress from the Boston district. He was voted for by the other party, but the Federalists elected over his head Fisher Ames, a much younger man, who had already gained a reputation at the bar, but who had chiefly raised himself into notice, as a member of the State Convention, by his earnest and eloquent advocacy of the Federal Constitution. In the western districts, which had been the chief seats of Shays's Rebellion, the choice was very warmly contested, and no election was made till after several trials, no person having the requisite majority. Grout, the anti-Federal candidate, a partisan of Shays's, was finally chosen in the Worcester district; but in the extreme western counties, the choice ultimately fell on Theodore Sedgwick, a lawyer, a descendant of the old Massachusetts major-general of that name, and a very decided Federalist. After two trials Gerry was elected from the Middlesex district over Gorham, his late colleague in the Federal Convention, but not till he had published an address to the electors declaring his

opinion that, as the new system had been adopted, CHAPTER  
I  
“every citizen of the ratifying states was in duty bound \_\_\_\_\_  
to support it, and that an opposition to a due adminis- 1789.  
tration of it would not only be unjustifiable, but highly  
criminal.” The mercantile interest had an able repre-  
sentative in Benjamin Goodhue, from the Essex district.  
At the head of the Connecticut delegation was the ven-  
erable Roger Sherman, a leading member of the Conti-  
nental Congress throughout the whole of the late war,  
and an active member also of the Federal Convention;  
a man who had risen, by his native energy, from the  
shoe-maker’s bench to distinction as a lawyer and emi-  
nence as a legislator, possessing an unrivaled reputation  
for sound judgment and sober good sense. Jonathan  
Trumbull and Jeremiah Wadsworth, two of his col-  
leagues, had successfully filled, during the late war, the  
responsible and difficult post of commissary general to  
the Revolutionary army. Samuel Livermore, one of  
the three representatives from New Hampshire, was a  
man of decided ability. The southern districts of New  
York were ably represented by Egbert Benson and John  
Lawrence. From New Jersey came Elias Boudinot,  
commissary of prisoners during the Revolutionary war,  
and afterward President of the Continental Congress.  
Of the eight members to which Pennsylvania was enti-  
tled, six were men of mark: George Clymer, a signer  
of the Declaration of Independence, and active through-  
out the Revolutionary war; General Peter Muhlenburg,  
and his brother, Frederic A. Muhlenburg, late President  
of the Pennsylvania Convention which had ratified the  
Constitution; Thomas Hartley, late a colonel in the  
Pennsylvania Continental line; Thomas Fitzsimmons, a  
distinguished merchant of Philadelphia; and Thomas  
Scott, from the settlements west of the Alleghanies.



CHAPTER I  
From the little State of Delaware, which has seldom failed to be ably represented on the floor of Congress, 1789. came John Vining. Such was Patrick Henry's antipathy to Madison, growing out of his warm advocacy of the Federal Constitution, at least such is Jefferson's account, that, not content with excluding him from the Senate, the Representative districts had been arranged with a special view to his exclusion from the House. Monroe ran against him; but by a very active canvass, being the son of a wealthy planter, with numerous and influential relations, Madison succeeded in securing an election. But he found it necessary to publish an address, a sort of counterpart to Gerry's, admitting his hostility to a new Federal Convention, but declaring himself favorable to amendments of the Constitution by Congress and the States. Madison excepted, the Virginia delegation was not distinguished for talent. The leading member next to him was John Page, representative of one of the old colonial aristocratic families, his father having been one of the royal counselors. The son had very warmly espoused the popular cause, and had been brought forward, during the Revolutionary war, as a competitor with Jefferson for the office of governor, after the expiration of Henry's first term. Page, however, was not ambitious; he had been put forward by his friends rather than by himself, and this competition had not disturbed the friendship between him and Jefferson. Of moderate abilities, benevolent temper, and a probity universally admitted and admired, he pushed the Republican theory to a greater extreme than even Jefferson himself. The greater part of the Virginia representatives were decided anti-Federalists.

A sudden revolution in the politics of South Carolina had caused an anti-Federal delegation to be elected in the

country districts of that state. Among the number were CHAPTER  
Ædanus Burke, distinguished for a pamphlet against       <sup>1.</sup>  
the Cincinnati; also General Sumter, the celebrated par- 1789.  
tisan officer. The Charleston district was represented  
by a Federalist, William L. Smith, soon distinguished as  
a leading debater. Smith's right to sit in the House  
was called in question on the ground that he was not  
legally a citizen, at least not for a sufficient period to be  
qualified under the Constitution. It appeared that he  
had gone to England in 1770 to be educated, being then  
twelve years of age, and had not returned till after the  
peace with Great Britain. But it also appeared that  
South Carolina had recognized the citizenship of all  
young natives of the colony sent to England for educa-  
tion, and by an act of 1779 had allowed them to re-  
main till twenty-two years of age, after which, if they  
did not return, their property was to be liable to double  
taxes. Smith's education, talents, and extensive prop-  
erty had brought him at once into notice on his return  
to Charleston. His right of citizenship had never been  
questioned at home, and it was sustained by the House  
with only one dissenting vote. The two Georgia repre-  
sentatives were both able men: Abraham Baldwin, an  
immigrant from Connecticut, since the peace, had been  
one of the Georgia delegates in the Federal Convention;  
James Jackson, his colleague, born in England, had emi-  
grated to Georgia in his boyhood, had taken an active  
share in the Revolution, and long continued to play a  
leading part in the violent local politics of that frontier  
state.

The House, when full, would consist of fifty-nine mem-  
bers, exclusive of those allowed by the Constitution to  
Rhode Island and North Carolina. Massachusetts, New  
York, Virginia, Maryland, and South Carolina had

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chosen their representatives by districts, as being the method best adapted to give a full expression to the popular will. New Hampshire, Pennsylvania, New Jersey, and Georgia had chosen by general ticket, that being deemed the best method of concentrating political strength and keeping out anti-Federalists. Connecticut adopted a peculiar method, which she continued to follow for many years. The voters were first called upon to nominate a list of candidates, three times the number to be chosen, of persons fit to represent them in Congress. This list having been duly published, a selection was made from it, at a subsequent election, of the number to which the state was entitled. In the more southern states a choice by pluralities was generally adopted; in New England, a majority of all the votes was necessary to elect. This latter method led often to repeated elections before a choice could be made, and sometimes to long-continued vacancies—an inconvenience so sensibly felt that the plurality system has finally prevailed in all but one or two states.

The Continental Congress had been accommodated in the old City Hall of New York, situated on Wall Street, opposite Broad Street, the site now so magnificently occupied by the United States Custom-house. But this building had fallen greatly to decay; the city had no funds in hand with which to make repairs; the Continental Treasury was equally empty, and had it been otherwise, no quorum of the states could be obtained competent to authorize the expenditure of money. Anxious for the due accommodation of the national Legislature, and desirous to hold out to Congress every inducement to make New York its permanent seat, several wealthy citizens advanced on this emergency the sum of \$32,500. With these funds a remodeling and extensive repairs

were at once commenced, and the renovated building, <sup>CHAPTER</sup>  
renamed "Federal Hall," was placed, by the city <sup>L</sup>—  
council, at the disposal of the new Congress. The day 1789.  
appointed for that body to meet was ushered in by the <sup>March 4</sup>  
firing of cannon and the ringing of bells, repeated at noon  
and at sunset; but, somewhat to the mortification of the  
more zealous Federalists, only eight senators and thirteen  
representatives made their appearance—not enough to  
form a quorum of either house. Not having received  
any accession to their number, the senators present issued,  
a few days after, a pressing circular letter to their ab-<sup>March 11</sup>  
sent colleagues. At the end of another week a second  
circular was issued; but the month had almost expired  
before either house could muster a quorum. In the lat-  
ter days of the Confederation, sad habits had been intro-  
duced of negligence and delay in all that related to fed-  
eral affairs. Want of punctuality was, indeed, far more  
excusable then than now. As yet public conveyances  
were rare, indeed almost unknown. The Continental  
Congress had lately authorized the postmaster general to  
contract for the transmission of the mail over the great  
route along the sea-coast by a line of stages, to carry  
passengers also; but this scheme, as yet, was very im-  
perfectly carried out, and most of the members were  
obliged to make their way to New York slowly on horse-  
back, or else by sea, at that time the usual and almost  
sole means of communication between New York and  
the extreme southern states. At that early season of  
the year, the roads in many places, and especially the  
fords of the rivers, were apt to be rendered impassable  
by floods—a topic in which the New York newspapers  
found consolation for the tardiness of Congress in com-  
ing together. Add to this that, owing in some cases to  
the late day fixed for the election, in others to repeated

CHAPTER I.  
failures of choice, a part of the representatives were not yet chosen. It accorded with this general system of 1789. tardiness, that Federal Hall, not yet completed, was still under the hands of the carpenters.

March 30 Thirty representatives, just a quorum, having at last made their appearance, the House proceeded to organize itself. The result of the presidential election, though the votes were not yet officially declared, was already well known. As the offices of president and vice-president had been filled from Virginia and Massachusetts, it seemed fit to take the speaker from Pennsylvania, the next state in wealth and population. Frederic A. Muhlenburg was accordingly chosen by ballot and conducted to the chair, an honor which he duly acknowledged. Muhlenburg was a man of wealth, engaged in the sugar-refining business in the city of Philadelphia.

April 6 The Monday following, the Senate having also obtained a quorum, Langdon being chosen president of that body, "for the sole purpose of opening and counting the votes for President of the United States," a message was sent to the other house that the Senate were ready in their chamber to proceed to count the votes. The Representatives proceeded to the Senate Chamber; the votes were opened, and, as they were read off by the presiding officer, two lists were made out, a senator and two representatives having been appointed for that purpose by their respective houses. The representatives having withdrawn, Langdon was elected president of the Senate pro tempore. The result of the election was officially declared to the two houses by their respective presiding officers. Washington had received sixty-nine votes, that being the whole number of electors voting. The votes for the second candidate were somewhat scattered. Nine votes, those of New Jersey, Delaware, and

one of Virginia, were given to John Jay; the six Mary-  
land votes to Robert H. Harrison, formerly Washing-  
ton's secretary, and then chief justice of that state; the  
six South Carolina votes to John Rutledge; two votes  
of Pennsylvania, and one each of Virginia and South  
Carolina, to John Hancock; three of Virginia to George  
Clinton; two of Connecticut to Samuel Huntington, late  
President of Congress, and now governor of that state;  
one of the Georgia votes to General Lincoln, and four  
others to three citizens of that state who did not enjoy  
a Continental reputation. John Adams received the en-  
tire vote of Massachusetts and New Hampshire, five votes  
out of seven in Connecticut, one in New Jersey, eight  
out of ten in Pennsylvania, and five out of ten in Vir-  
ginia—thirty-four in all; not a majority, but sufficient,  
as the Constitution then stood, being the second highest  
number, to make him vice-president. Adams had lately  
returned from a nine years' diplomatic residence abroad,  
the latter part of the time as minister to England, a sta-  
tion from which he had been tacitly recalled by the ex-  
piration of the three years to which, by a resolution of  
the Continental Congress, all diplomatic appointments  
had been limited. England having appointed no minis-  
ter to America, it had not been thought proper to con-  
tinue the mission.

The notification of the president and vice-president  
elect was intrusted by the House to the Senate, and two  
special messengers were dispatched for that purpose, pro-  
vided with formal certificates of the result of the vote, and  
letters of congratulation drawn up by a committee and  
signed by Langdon. A joint committee of the two houses  
was also appointed to prepare an appropriate reception.

During the absence of the messengers, the two houses  
busied themselves upon rules and orders of proceeding,

CHAPTER <sup>L</sup> to draft which they appointed their separate committees,  
\_\_\_\_\_ and also a joint committee on the choice of a chaplain  
1789. and on rules to govern the two houses in cases of conference. The rules adopted on the reports of these committees, though since modified in some particulars, still continue to form the basis of congressional action. The powers to preserve order given to the President of the Senate and the Speaker of the House, and those relating to the course of debate and decorum of conduct, were the same which had been in force in the Continental Congress, and which prevailed in all the state legislative assemblies.

In the Senate, committees were to be chosen by ballot, a practice still kept up; in the House, their appointment was to be by the speaker, unless they were to consist of more than three members, in which case the appointment was to be by ballot. This rule lasted, however, only for the session; at the commencement of the next session it was modified into the shape which it still retains, the appointment of all committees being given to the speaker, except when otherwise expressly ordered. The rules of the House provided for a single standing committee—one on elections—the beginning of a system since so extended as to exercise almost complete control over the business of the House. This, however, was a work of time; no other standing committees were added till several sessions afterward, and for many years the number was limited to four or five.

In the House, bills could only be introduced by committees to whom the subject-matter had been referred. Every bill was required to receive three readings on three different days. It was made a standing order of the day for the House to resolve itself into committee of the whole on the state of the Union, for the consideration and free

discussion of such bills or motions as might be committed to it, the speaker in that case to leave the chair, having first appointed a chairman to preside ; but no vote or proceeding in committee of the whole was to be binding unless subsequently confirmed by the House. CHAPTER  
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1789.

In the Senate, every member had the right of introducing bills. The use of formal committees of the whole was not adopted ; but all bills, on their second reading, were to be freely discussed, as if in committee of the whole. Both houses adopted the practice, borrowed from the British Parliament, of founding bills upon resolutions discussed in committee of the whole and adopted by the House, the principal discussion being thus made to precede the introduction of the bill—a method since, in a great measure, superseded by the practice of referring every new proposition to one or other of the numerous standing committees. The previous question, as a means of stopping debate, was hardly known in the early Congresses. A refusal to order the previous question was considered equivalent to a dismissal of the subject, for which purpose that motion was occasionally employed.

Some difference arose as to the method of communicating bills from one house to the other. The Senate proposed to send theirs by their secretary, and that bills from the House be brought up by two members of that body, to be received by the senators standing. The House refused to consent to any such distinction, and the Senate finally agreed to receive bills by such messengers as the House might appoint.

In case of amendments to bills proposed by one house and disagreed to by the other, but still insisted upon, committees of conference were to be appointed at the request of either house, for the purpose of arranging the difference.

While on their passage between the two houses, bills



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1789. were to be engrossed on paper. After their passage, they were to be enrolled on parchment, and after the correctness of the enrollment had been verified and reported upon by a joint standing committee appointed for that purpose, they were to be signed first by the Speaker of the House and then by the President of the Senate, and afterward the same joint committee were to present them to the president for his signature, the day of presentation, as reported by the committee, to be entered on the journals of both houses.

In addition to its clerk, who had the making up of the journal, under the superintendence of the speaker, the House appointed a sergeant-at-arms as its executive officer for the arrest of absent or disorderly members, or other persons who might infringe the dignity of the House ; also a door-keeper, with assistants, and a messenger. The Senate had a secretary, corresponding to the clerk of the House, a door-keeper, and a messenger. Two chaplains were to be chosen, of different denominations, one by the Senate, the other by the House, to interchange weekly. The House sat with open doors, the public were admitted to hear the debates, and reporters were accommodated with seats on the floor. The Senate imitated the example of the Continental Congress, transacting all its business with closed doors, a practice continued for several sessions, till public opinion compelled its abandonment.

Vice-president Adams having received official notice of his election, after the honor of an entertainment from Governor Hancock, departed for New York, under the escort of a troop of horse. He was attended in like manner through Connecticut, and, by order of Governor Clinton, was received at the New York line in a similar way. From King's Bridge, at the upper end of

York Island, he was attended into the city by the joint <sup>CHAPTER</sup> committee of arrangements of the two houses, by a nu- <sup>I.</sup> merous concourse of citizens, and by several companies 1789. of the city militia. Introduced into the Senate Chamber by a committee appointed for that purpose, and conducted April 21. to the chair by Langdon, he addressed the Senate in a short but characteristic inaugural speech. "Invited to this respectable situation by the suffrages of our fellow-citizens, according to the Constitution, I have thought it my duty cheerfully and readily to accept it. Unaccustomed to refuse any public service, however dangerous to my reputation or disproportional to my talents, it would have been inconsistent to have adopted any other maxim of conduct at this time, when the prosperity of the country and the liberties of the people require perhaps as much as ever the attention of those who possess any share of the public confidence."

After some very high compliments to the senators and to the president elect, and some apologies for himself, as having, though not wholly without experience in public assemblies, been more accustomed to take a share in their debates than to preside over their deliberations, he concluded as follows: "A trust of the greatest magnitude is committed to this legislature, and the eyes of the world are upon you. Your country expects from the results of your deliberations, in concurrence with the other branches of government, consideration abroad and contentment at home—prosperity, order, justice, peace, and liberty; and may God Almighty's providence assist you to answer their just expectations!"

The messenger selected to inform Washington of his election was Charles Thompson, who had filled the place of secretary to the Continental Congress during the whole period of its existence. Having arrived at Mount Ver-

CHAPTER I. non in company with two gentlemen of Alexandria, he  
executed his commission in a formal speech, to which  
1789. Washington made an equally formal reply, declaring his  
April 16. acceptance of the office, and his readiness to leave within  
two days to enter upon it.

From the moment it had become certain that the Constitution was to go into effect, Washington had been very warmly pressed by numerous correspondents not to decline that post for which he was so singularly qualified by the choice and the confidence of the entire nation. The general expectation that he would be president had contributed not a little to calm down the excitement against the new Constitution, and to give to its friends so decided a predominance in the choice of members of the first Congress. Fortunate, indeed, it was for the nation to possess at this crisis of its fate a man not only fit to fill the office of president, but one in whose fitness the whole people were agreed.

Washington desired to proceed to New York in the most private manner, but the flow of veneration and gratitude could not be suppressed. Having been entertained at a public dinner by his neighbors of Alexandria, he was welcomed to Maryland by a collection of citizens assembled at Georgetown. At the frontier of Pennsylvania he was met by a large escort, headed by Mifflin, recently elected president of that state, to whom it thus again fell to be the instrument of paying honors to the man he had once wronged. A magnificent reception and a splendid entertainment were prepared at Philadelphia, where the Executive Council, the trustees of the University, the judges of the Supreme Court, the officers of the Cincinnati, and the mayor and common council of the city, hastened to wait on the president elect with their congratulations.

Ascending the left bank of the Delaware, Washington <sup>CHAPTER</sup><sub>I.</sub> crossed the next day into New Jersey. The people of Trenton remembered the battles fought in their neighborhood twelve years before, and if his reception at other places was more splendid, nowhere was it so graceful and touching. On the bridge across the Assumpink, which flows through the town into the Delaware, the same bridge across which Washington had retreated before Cornwallis's army on the eve of the battle of Princeton, a triumphal arch had been erected, supported on thirteen pillars, twined with evergreens, flowers, and laurel. Beneath this arch, which bore for inscription "The Defender of the Mothers will be the Protector of the Daughters," were assembled a party of matrons, mixed with young girls dressed in white, and holding baskets of flowers in their hands. As Washington approached they began to sing a little ode prepared for the occasion :

Welcome, mighty chief, once more  
 Welcome to this grateful shore ;  
 Now no mercenary foe  
 Aims again the fatal blow,  
 Aims at thee the fatal blow.

Virgins fair and matrons grave,  
 Those thy conquering arm did save,  
 Build for thee triumphal bowers ;  
 Strew, ye fair, his way with flowers !  
 Strew your hero's way with flowers !

Suiting the action to the words, they ended the chant in strewing their flowers before him.

Having crossed New Jersey, Washington was received April 23 at Elizabethtown Point early in the morning, in accordance with a previous arrangement, by a committee of both Houses of Congress, with whom were Jay, Secretary for Foreign Affairs, General Knox, Secretary at War, Samuel Osgood, Arthur Lee, and Walter Livingston,

CHAPTER I. commissioners of the Treasury, and Ebenezer Hazard,  
Postmaster General, these heads of departments still con-

1789. tinuing to act under their appointments from the Continental Congress until new arrangements could be made. A barge splendidly fitted up, and manned by thirteen pilots in white uniforms, had been provided to convey the president to New York; and quite a naval procession was formed out of a multitude of other boats and barges. After a voyage of several hours, the approach to New York was welcomed by artillery salutes from the battery and the ships in the harbor. At the landing-place at the foot of Wall Street, appropriately decorated for the occasion, Governor Clinton was in waiting, with the principal state officers and those of the city corporation, and a vast concourse of citizens. A procession, headed by a numerous detachment of the city militia, having been formed under a salute of cannon, the president elect was escorted to the house lately occupied by the President of the Continental Congress, and which the new Federal Congress had ordered to be fitted up for his reception. Hence he proceeded to Governor Clinton's, where he was entertained at dinner. The evening closed with a brilliant display of fire-works.

As the new Federal Hall was not yet entirely finished, a week elapsed before preparations were completed for administering to the president elect the oath of office. The place selected for that purpose was the outer gallery or balcony of the Senate Chamber, visible for a long distance down Broad Street, which it fronted, thus affording opportunity to witness the ceremony to a large number of eager spectators. At nine o'clock all the churches in the city were opened for prayer and religious services.

April 30. A little after noon the president elect left his house escorted by the city cavalry, and attended by a committee

of Congress and the heads of departments in carriages, followed by the two or three resident foreign ministers, and by a long procession of citizens. Having entered the Senate Chamber, where the two houses were assembled to receive him, he was conducted to an elevated seat at the head of the room. After a momentary silence, all being seated, the vice-president rose and stated to the president-elect that all was ready for the administration of the oath, whenever he was prepared to receive it. Upon this intimation, Washington proceeded to the balcony, followed by the senators and representatives. The oath was administered by the Chancellor of New York, Robert R. Livingston, Jay's predecessor as Secretary for Foreign Affairs. As he finished the ceremony, he exclaimed aloud, "Long live George Washington, President of the United States!" to which the assembled multitude responded in long and enthusiastic shouts.

Having returned to the Senate Chamber, accompanied by the senators and representatives, and all having resumed their seats, Washington rose and delivered a short inaugural address. He spoke of the conflict of emotions with which he had heard the voice of his country, never listened to but with veneration and love, calling upon him to quit the retreat of his choice, made dearer by habit, age, and declining health, to assume an office which might well awaken a distrustful scrutiny of qualifications in the wisest and most experienced, and sufficient to overwhelm with despair one inheriting inferior endowments from nature, and unpracticed in the duties of civil administration. If in this case his decision had been too much swayed by remembrance of the past, he still trusted for palliation of his error to the partiality of his country.

He expressed his devout gratitude to Heaven, and called upon Congress to join him in it, for the good prov-

CHAPTER <sup>L</sup> idence which seemed thus far to have watched over American affairs; and from the character of the men about 1789. him, to whom the organization of the government was intrusted, he drew happy prognostications of success.

It was hardly the proper time, with no opportunity as yet to become acquainted with the exact state of affairs, to exercise his constitutional duty of recommending measures to their consideration; yet one topic he could not entirely pass over, that of amendments to the new Constitution. It was well worthy the most serious attention of Congress, whether, while carefully avoiding every alteration which might endanger the benefits of a united and effective government, or which ought to await the lessons of experience, a reverence for the characteristic rights of freemen, and regard for the public harmony, might not suggest some provisions by which those rights might be still more impregably fortified, and that harmony safely promoted. Having suggested that he desired, as while he held his former office of commander-in-chief, no other compensation for his services than the bare reimbursement of his expenses, he closed with renewed expressions of devout gratitude, and supplications for further aid, protection, and guidance.

The speech finished, the two houses, accompanied by the president, proceeded to St. Paul's Church, where prayers suited to the occasion were read by Provoost, the lately-ordained bishop of New York, who had been selected by the Senate as one of the chaplains of Congress. These services over, the president was escorted back to his own house. In the evening there was a display of fire-works at the Battery, and the houses of the French and Spanish ministers were illuminated.

Similar exhibitions of public consideration were extended also to the president's family. Mrs. Washington,

who arrived at New York about a month after, was met CHAPTER  
I by the president and other official persons at Elizabeth-  
town Point; she received, as she passed the Battery, the 1789.  
federal salute of thirteen guns, was welcomed by a crowd  
at the landing-place, and escorted to her house with mili-  
tary parade.

In all this there was nothing very extravagant. The same thing, and much more, has been since repeated again and again, when not the man, but the office merely, was the object of respect. Yet there were not wanting sturdy Republicans who looked on with doubt and suspicion, as if they saw in this parade an ominous foreshadowing of monarchical ceremonies.

These suspicions, not without considerable influence on the future politics of the country, received additional impulse from another circumstance. On the day of Washington's arrival, the Senate had appointed a committee to confer with such committee as the House might appoint, as to what titles, if any, it would be proper to annex to the offices of president and vice-president. This joint committee reported that it would not be proper to make use of any other styles or titles of office than those "expressed in the Constitution." In the House this report was adopted without objection; but it did not satisfy the Senate. The subject having been referred to a new special committee, consisting of Richard Henry Lee, Izard of South Carolina, and Dalton of Massachusetts, they reported that it would be proper to employ, in addressing the president, the style of "His Highness, the President of the United States, and Protector of their Liberties." By the Constitution of Massachusetts, the governor of that state was invested with the title of "His Excellency," and the lieutenant governor with that of "His Honor." The Constitution of Georgia bestowed



CHAPTER on the governor of that state the title of "Honorable."

— <sup>I</sup> — The President of the United States, it was argued, ought

1789. to have some more distinguishing title. Before this report came up for consideration, the committee by whom it had been made was authorized to confer on the subject with any such committee as the House might appoint. This invitation for a new joint committee excited quite a warm debate in the House. The matter, it was said, had been once already decided, and it was moved on that ground not to concur in the proposed new committee. While advocating this motion, Page thought, however, that they ought to begin with themselves. "He felt a good deal hurt that gentlemen on the floor, after having refused permission to the clerk to enter any thing more than their plain names on the journal, should be standing up and addressing each other by the title of the 'honorable gentleman.' He wished the practice could be got over, because it added neither to the honor nor to the dignity of the House." Tucker of South Carolina, who had opposed the appointment of the first committee, argued warmly against a new one. "What, sir, is the intention of this business? Will it not alarm our fellow-citizens? Will it not give them just cause of alarm? Will they not say that they have been deceived by the Convention that framed the Constitution, and that it has been contrived with a view to lead them on by degrees to that kind of government which they have thrown off with abhorrence? Shall we not justify the fears of those who were opposed to the Constitution, because they considered it as insidious and hostile to the liberties of the people? Does the dignity of a nation consist in the distance between the first magistrate and the citizens; in the exaltation of one man and the humiliation of the rest? If so, the most despotic government

is the most dignified; and, to make our dignity complete, we must give a high title, an embroidered robe, a princely equipage, and, finally, a crown and hereditary succession! Let us establish tranquillity and good order at home, and wealth, strength, and national dignity will be the infallible result. The aggregate of dignity will be the same, whether divided among all or centered in one. And whom, sir, do we expect to gratify? Is it the man now president? He has a real dignity of character, and is above such little vanities. If not for his gratification, for whose, then, are we to do this? Where is the man among us who has the presumption and vanity to expect it? Who is it that shall say, 'For my aggrandizement three millions of people entered into a calamitous war, they persevered in it for eight long years, they sacrificed their property, they spilled their blood, they rendered thousands of families wretched by the loss of their only protectors and means of support?' This spirit of imitation, this spirit of apishness, will be the ruin of our country; and, instead of giving us dignity in the eyes of foreigners, will only expose us to be laughed at." The person at whom Tucker aimed, in the closing part of his remarks, was no doubt the vice-president, who was understood to be decidedly in favor of titles, and who had adopted in his equipage and manner of living a style of distinction at which many, especially of the Southern members, took marked offense.

Though opposed to titles, Madison did not think them so full of danger as some gentlemen feared. Titles did not confer power, and he did not conceive that all the titles in Europe or Asia could make the office of president dangerous to the liberties of America. He objected to them simply because they were not reconcilable with the nature of our government or the genius of the peo-

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 1789. ple, and, even if proper in themselves, were not expedient at the present time. But, though opposed to the object in view, he still thought that proper respect and attention to the Senate required the House to join in the new committee proposed.

Clymer "thought there was little occasion to give any title either to the president or vice-president; but he could not agree with those who spoke of titles as unpopular. He was led to think otherwise, from the vast number of 'honorable' we have in America. As soon as a man is selected for the public service, his fellow-citizens, with a liberal hand, shower down titles upon him. He believed there were more 'honorable esquires' in the United States than in all the world besides. He hoped the example of the House might extinguish this predilection in favor of titles." There were, however, plain distinctions, which Clymer omitted to note, between titles spontaneously conferred by a man's political friends and those the right to which might be established by law; also between titles so commonly given as to be within every body's reach, and titles limited to one or a few. As a mere spontaneous compliment, which every man might expect in his turn, titles excited little jealousy, however they might conflict with the ultra-Republican theory. But the case seemed to be different when it was proposed to give them a legal or semi-legal character.

After some further discussion, the House appointed a committee of conference, to which step the Senate responded; but no report was ever made. The House, in fact, had already carried their views into practice by addressing Washington in reply to his speech simply as "President of the United States;" an example which the Senate, though not without some reluctance and a sort of protest, saw fit to follow. The answer of the

House was delivered to Washington in a lobby or audience chamber adjoining the Representatives' Hall by <sup>CHAPTER</sup>           <sup>L</sup> the hand of the speaker, attended by the members. The 1789 Senate, for the purpose of delivering their answer, waited upon the president at his own house—a custom afterward adopted by the representatives, who, for the first twelve years of the Federal Government, were accustomed to go in procession for that purpose, with the sergeant at-arms at their head, bearing the mace.

As the Senate was to act in certain cases as the president's executive council, it became necessary to fix the forms and methods of communication. In the discussion of treaties and other matters relating to external relations, the course first agreed to was, that the president should be present in person; but, on trial, this method was found to be attended with various embarrassments, and was speedily abandoned. Somewhat against the inclination of the Senate, Washington at once adopted the practice of making all nominations to office by written message; after its adoption in the case of treaties also, this became the only method of official communication between the executive and the Senate.

In regulating his intercourse with the public at large, Washington was anxious to adopt such a system as, without overstepping the limits of republican simplicity, might best maintain the dignity of the office, and secure to the president that command of his time essential to the proper discharge of his duties. Though very much criticised at the moment, the customs which he introduced have ever since regulated the etiquette of the president's household. He laid it down as a rule to return no visits. To secure himself from being overrun by miscellaneous callers, certain fixed days were appointed for presidential levees; and, to avoid the embarrassments to

CHAPTER I. which the presidents of Congress had subjected themselves by keeping a sort of open table—so that every 1789. caller at last began to consider himself entitled to be invited—no dinner invitations were given except to official characters and strangers of distinction. The arrangement of the ceremonial connected with the president, at the levees and elsewhere, appears to have been left to Humphreys of Connecticut, who had been formerly an aid-de-camp to Washington, and, more recently, secretary of legation at Paris, whence he had returned with a good many foreign airs and notions. Some seemingly very trifling matters, such as placing Washington and his wife on an elevated seat at a public ball, which the dancers, before commencing, approached with a low obeisance, became, in the party struggles of after years, things of no little importance, being confidently relied upon as palpable and convincing proofs of the monarchical tendencies of the Federal party.

At an early day, the senators, in conformity to a provision in the Constitution to that effect, divided themselves into three classes, to terminate their service in two, four, and six years respectively. This matter was settled by lot, and the absent senators, as they arrived, were arranged in the same way, in one or another of the three classes. The first act presented to the president for his signature was one to regulate the administration of the oaths imposed by the Constitution. The oath of the members of the House had, however, been previously fixed by resolution, and administered by the Chief Justice of the State of New York. The first more important business which engrossed the attention of Congress was, in the Senate, the framing of a Judiciary Act, and in the House, the provision of a revenue by imposing duties on imports.

Indeed, the House had not waited for the inauguration of the president to enter upon this all-important subject of revenue. Within two days after the votes for president had been counted, and while the method of proceeding was but yet immature, this subject had been brought forward by Madison, to whom the leadership seemed to be tacitly conceded, in the first committee of the whole on the state of the Union into which the House had resolved itself. For the purpose of an immediate supply to the treasury, which was almost totally empty, and upon which there were so many claims, Madison suggested the adoption of a temporary system of imposts, to be based on that proposed by the Continental Congress, and to which all the states except New York had given their assent. With this view, he introduced a resolution enumerating rum and other spirituous liquors, wines, tea, coffee, sugar, molasses, and pepper, as subjects for specific duties, the amount being left blank; proposing also a blank ad valorem duty upon all other articles imported, and a tonnage duty on all vessels, with a discrimination in favor of vessels owned wholly in the United States, and an additional discrimination between foreign vessels, favorable to those belonging to countries having commercial treaties with the United States.

The statements of the various speakers in the debate that followed throw no little light upon the position of American industry at that time, especially in what relates to trade and manufactures; and the tariff which grew out of it, though greatly added to and variously modified since, still lies at the bottom of our existing revenue system. In the course of the debate were fully developed the whole length and breadth of the various tariff controversies which have formed so leading a topic in our more recent politics, except, indeed, the single point

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of the want of power in the federal government to lay duties for protection, an idea which seems not yet to have been broached. Another question of great subsequent importance related to the ability of the United States to coerce foreign nations by means of commercial restrictions, and the policy of resorting to that means. In Madison's opinions upon this subject, so warmly urged, we may discover the origin of that system of policy afterward taken up by Jefferson, pertinaciously carried out twenty years afterward in the embargo and non-intercourse, and ending at last, as its opponents had foretold, in a war with Great Britain. Instead, therefore, of being a mere dry discussion as to what imports should be taxed and how much, this debate, by exhibiting the various ideas which prevailed, is a great help toward understanding many interesting points of our subsequent history.

Fitzsimmons opposed the idea of mere temporary duties. It were better to agree at once on a system adequate in some degree to the present situation of the country, as regarded agriculture, manufactures, and commerce. He proposed to increase the list of articles upon which specific duties were to be imposed, partly with a view to the imposition of "sumptuary restrictions" upon articles of luxury, but principally with the design "to encourage the productions of our country, and to protect our infant manufactures." With the first object in view, he proposed to add as subjects for specific duties spices and fruits, and, with a view to domestic protection, beer, ale, porter, cider, beef, pork, butter, cheese, candles, soap, cables, cordage, leather, hats, slit and rolled iron, iron castings, nails, unwrought steel, paper, cabinet-ware, and carriages. Several petitions had already been presented from the mechanics, manufacturers, and ship-

wrights of the principal towns, praying for protection against foreign competition, and others continued to come in during the session. CHAPTER  
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“I own myself,” said Madison, in relation to this topic, “the friend of a very free system of commerce. If industry and labor are left to take their own course, they will generally be directed to those objects which are most productive, and that in a manner more certain and direct than the wisdom of the most enlightened legislature could point out; nor do I believe that the national interest is more promoted by such legislative directions than the interest of the individuals concerned. Yet I concede that exceptions exist to this general rule important in themselves, and claiming the particular attention of this committee. If America were to leave her ports perfectly free, and to make no discrimination between vessels owned by citizens and those owned by foreigners, while other nations make such discrimination, such a policy would go to exclude American shipping from foreign ports, and we should be materially affected in one of our most important interests.

“Duties laid on imported articles may have an effect which comes within the idea of national prudence. The states most advanced in population, and ripe for manufactures, ought to have their particular interests attended to, at least in some degree. Some establishments have grown up under the power which those states had of regulating trade, which ought not to be allowed to perish in consequence of the recent alteration. It would be cruel to neglect them and to divert their industry to other channels, since it is not possible for the hand of man to change from one employment to another without loss.

“There is another exception upon which great stress is laid by some well-informed men, and with great plaus-



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ibility. It is said that every nation should have within  
itself the means of defense, independent of foreign sup-

1789. plies; that, in whatever relates to the operations of war, no state ought to depend upon a precarious supply from other parts of the world. There may be some truth in this, and therefore it is proper for legislative attention; though I am well persuaded that the reasoning on this subject has been carried too far.

"The impost on trade for the purpose of obtaining revenue may be considered as another exception. So far as revenue may be more conveniently and certainly obtained by this than by any other method, I think sound policy dictates to use it."

He did not object to Fitzsimmons's list. "Some of the propositions may be productive of revenue, and some may protect our domestic manufactures, though the latter subject, which involves some intricate questions, ought not to be too confusedly blended with the former." Fitzsimmons's motion was agreed to, and, on Goodhue's proposal, anchors, wool-cards, and tin-ware were added to the list as articles the manufacture of which deserved protection.

The next step was to fill the blanks. Sherman proposed to charge rum with a duty of fifteen cents the gallon, adding, for the information of the House, that "he used the word cent because it was a denomination of national coin fixed by the late Congress, ten of which made a dime, and ten dimes one dollar." Lawrence urged the danger of smuggling if the duty were laid too high, and proposed to fix it at twelve cents per gallon. It was answered, that if a high duty were to be imposed on any article, this was the one. The consumption was so great that a large revenue might be expected from it; and even should the duty operate to lessen the consump-

tion, the probability of which was suggested as a reason for fixing the duty at a lower rate, that result, in a moral point of view, was much to be desired. CHAPTER  
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The great evils attending the free use of ardent spirits had already attracted public attention. A tract on this subject, by Dr. Rush, had lately been republished in almost all the American papers, and had made a strong impression on the public mind. At the federal festival at Philadelphia, of which an account is given at the commencement of this chapter, ardent spirits had been excluded, American beer and cider being the only liquors used. "If we can judge," said Madison, "from what we hear and see, it is the sense of the American people that a duty weighty indeed should be imposed on this article." After a good deal of discussion, the proposed duty of fifteen cents per gallon was limited to rum of the highest proof, other descriptions to be charged twelve cents.

The Southern members favored a high duty on rum with a view to revenue, and the Eastern members with a view to the protection of the New England manufacture; but they separated on the question of the rate of duty on molasses, the New England members uniting with Lawrence, who acted as the champion of the mercantile interests of the city of New York, in favor of a low duty. Madison suggested that a high duty on molasses would operate as a tax on the rum distilled from it, thus dispensing with the expensive and unpopular machinery which the collection of such a tax by way of excise would require. To this it was answered that in Massachusetts, which imported more molasses than all the other states together, it was used not merely for distillation, but to a great extent as a substitute for sugar. A high tax upon such a necessary of life would be very oppressive. Goodhue put the committee in mind of the British Molasses Act,

CHAPTER which had done so much to stir up discontent and to  
\_\_\_\_\_ hasten the Revolution. On this unpromising topic the  
1789. brilliant eloquence of Ames was displayed for the first  
time. Following the old colonial line of argument against  
the British Molasses Act, he insisted that so heavy a  
duty tended to the ruin of the New England fisheries  
and commerce; but these arguments were parried by the  
suggestion that the New England distillers would now  
have open to them the market of the Union, freed from  
the state imposts hitherto imposed, and protected by the  
duty on foreign rum. If, however, this tax bore hard  
upon Massachusetts, other taxes on the list would bear  
hard on other states. After a great deal of discussion,  
the opposers of a high duty only so far prevailed as to  
have the blank filled with six cents, which they esteem-  
ed, however, to be very exorbitant.

On motion of Madison, eight cents a gallon on beer  
was agreed to, for the express purpose of encouraging  
the domestic manufacture. A duty on candles was  
adopted on the same ground. An objection was taken  
by some Southern members to any duty on steel, as op-  
pressive to agriculture, to which Clymer and Fitzsim-  
mons replied that the manufacture of steel was already  
commenced with good success in Pennsylvania, and that  
a moderate protective duty would lead to a great in-  
crease of production. Five shillings on the hundred  
weight, all they asked for, would affect the agricultural  
interest but very slightly, even supposing the duty to be  
paid on all that was used. It might be esteemed a par-  
tial tax, but was not that objection overbalanced by the  
establishment of so important a manufacture? The  
duty was finally fixed at fifty-six cents per hundred.

The duty on cordage being under consideration, Madi-  
son questioned the policy of imposing duties on articles

which entered into ship-building. If a duty on cordage were necessary for the purpose of encouraging the manufacture and making us independent as to that article, it was equally necessary to encourage the production of hemp, and he moved to add that to the list. Some members from the maritime states denied that hemp could be raised in the country; upon which Scott, who came from the district about Pittsburg, informed the committee that the lands on the Ohio were well calculated for this article, which also had the advantage of being better able to bear the expense of transportation than any thing else, even tobacco. He believed that, with the encouragement now asked for, large quantities might speedily be supplied to the Philadelphia market. If there were no convenient route across the mountains and down the Potomac, the Mississippi would furnish an outlet. "We are no strangers to its navigation," said Scott, "nor do we find it difficult to construct boats of great dimensions capable of floating down many tons."

Fitzsimmons and Hartley, strong sticklers for protection on all manufactured articles, opposed, however, this duty on hemp. The domestic supply was notoriously very small, and Fitzsimmons thought that if the present price did not stimulate the farmer to produce it, nothing would. Several of the Southern members, on the other hand, who had opposed all protective duties on manufactured articles, supported the duty on hemp as an encouragement to agriculture. Burke stated that, on account of their diminished price, rice and indigo, the staple products of South Carolina and Georgia, were hardly worth cultivating. The lands there were well adapted to the growth of hemp, and he did not doubt that its cultivation would be attended to. Cotton was likewise in contemplation, and, if good seed could be procured,

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he hoped it would succeed. Scott's remarks about the navigation of the Mississippi, and Burke's about cotton, 1789. are significant landmarks of the commercial and agricultural advancement made by the United States within two generations. Patridge, of Massachusetts, admitted the propriety of encouraging agriculture, but not at the expense of the ship-builders. The duty ought not to exceed five per cent. ; forty cents per hundred was about equal to that, and he moved to fill the blank with that sum. The State of Massachusetts had imposed a duty of one per cent. only on hemp imported, which had been applied to pay a bounty of a dollar per hundred on all hemp raised within the state. Several Southern members advocated a duty of seventy-five cents per hundred ; but Madison thought that too high. He by no means approved of measures injurious to ship-building, and was even doubtful if it might not have been as well to have left out cordage. He moved fifty cents per hundred, which was agreed to.

The duty on spikes, nails, tacks, and brads was strongly opposed by several Southern members, as a duty, in fact, on the improvement of estates. Madison suggested that it was a burden, also, upon ship-building. His colleague, Bland, thought it an unequal tax, burdening the Southern States, but not felt at the North, where enough of these articles was made for domestic consumption. Goodhue replied, that great quantities were made for exportation in Massachusetts and Pennsylvania, and he believed in other states ; enough might soon be made to supply all North America. "This manufacture," said Ames, "with very little encouragement, has grown up remarkably. It has become common for the country people in Massachusetts to erect small forges in their chimney-corners, and in winter, and on evenings when

little other work can be done, great quantities of nails <sup>CHAPTER</sup>  
 are made, even by children. These people take the         
 rod-iron of the merchant and return him the nails, and, 1789.  
 in consequence of this easy mode of barter, the manu-  
 facture is prodigiously great. These advantages are  
 not exclusively in the hands of the people of Massachu-  
 setts. The business might be prosecuted in a similar  
 manner in every state exerting equal industry." From  
 this account of the facility and economy of the manu-  
 facture of nails, Tucker thought it evident that they  
 stood in no need of any prohibition. Ames, in reply,  
 suggested a new view of the case, applicable not to nails  
 only, but to all articles manufactured at the North.  
 "The commerce of America, particularly of the south-  
 ern parts, had, by the force of habit and English con-  
 nections, been setting strongly toward Great Britain,  
 and it required the aid of the general government to di-  
 vert it to a more natural course. Good policy and  
 sound wisdom demonstrated the propriety of an inter-  
 change of products between the different states of the  
 Union. To bring about this political good some force  
 was necessary. Laying a small duty on foreign manu-  
 factures might, from motives of interest as well as in-  
 clination, induce our fellow-citizens to barter with or  
 buy of each other what they had long been accustomed  
 to take from strangers. From the different situation of  
 the manufacturers in Europe and America, encourage-  
 ment was necessary. In Europe, the artisan is driven  
 to labor for his bread; stern necessity, with her iron  
 rod, compels his exertion. In America, invitation and  
 encouragement are needed; without them the infant  
 manufacture droops, and those who might be employed  
 in it seek, with success, a competency from our cheap  
 and fertile soil."

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Fitzsimmons thought the American manufacturers would have little to apprehend even if the articles in 1789. question were left without a special duty. Neither spikes nor nails for ship-building were imported; they were generally large and heavy, and were made in the country according to the builder's order. Before the Revolution the people in America were not permitted to erect slitting-mills; they now had several, and were independent of all the world for the materials necessary to carry on the business of nail-making. The duty would draw but little money into the treasury, nor would the omitting it do any material injury. He was willing, however, to allow a small one out of conformity to the policy of protective duties. Tacks and brads were struck out; spikes and nails were taxed one cent per pound. The household manufacture of nails described in this debate has long since been wholly superseded by machinery.

The duty on salt gave rise to a lively debate—fore-runner of a great many subsequent congressional discussions on the same fruitful topic. Lawrence proposed six cents per bushel. This was vehemently opposed by several members from the South and West, who urged that great quantities of salt were consumed by cattle—the principal article which the people in the back settlements raised for market. The cost of transportation already made the price excessively high, and to increase it by taxation would produce discontents which might prove dangerous. It was argued, on the other side, that salt, from its universal consumption, was one of the articles most productive in revenue; that the moderate duty proposed could not greatly enhance its price; and that, even allowing a greater proportional consumption of salt by the frontier inhabitants, their less consumption of

other taxed articles would more than indemnify them for CHAPTER  
 any excess of taxation on this. The duty of six cents 1789.  
 was agreed to; a drawback to be allowed on salted provisions and fish exported.

A duty of six cents per pound, intended to be prohibitory, was agreed to on manufactured tobacco, that is, tobacco prepared for chewing. On motion of Carroll of Maryland, who stated that a manufactory of glass had been successfully begun in his state, a duty of ten per cent. ad valorem was imposed on window and other glass, except black quart bottles. On Clymer's motion, a duty of seven and a half per cent. was agreed to on paper, pasteboard, and blank books. Clymer stated that the paper-mills of Pennsylvania produced annually seventy thousand reams of various kinds of paper, which were sold as cheap as they could be imported. Already there were fifty-three paper-mills within the range of the Philadelphia market. A duty of fifty cents per dozen was also agreed to on wool-cards, which, according to the statements of Aines and Clymer, were manufactured in Massachusetts and Pennsylvania as good and cheap as those imported.

With respect to teas, it was proposed to discriminate between those imported from India and China in American vessels, and those imported in foreign vessels, or from other countries than India and China. The object was to encourage the trade with the East Indies, lately opened by some enterprising American merchants, and already prosecuted with good success. More than forty vessels from Massachusetts were already employed in this trade, principally from the port of Salem, and a few others from New York and Philadelphia. Madison thought the trade not worthy of encouragement, since the articles imported were chiefly luxuries not paid for by the ex-



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 port of our own products, but in specie, while long voy-  
 ages like those to India were unfriendly to the increase  
 1789. of commerce. To this it was replied by Goodhue and  
 Boudinot that considerable quantities of ginseng (a plant  
 which the Chinese hold in great esteem for its medicinal  
 qualities, and which a French Jesuit missionary in Cana-  
 da had found growing in the North American woods),  
 also lumber and provisions, were shipped direct to China,  
 while other articles, such as beef, pork, flour, and wheat,  
 were disposed of at ports on this side of China, in order  
 to procure cargoes suitable for that market; so that the  
 imports from China were in fact paid for, in a great  
 measure, by the export of domestic produce. After these  
 explanations the discriminating duty was agreed to.

At the suggestion of Bland and Parker, who stated  
 that coal-mines had been opened in Virginia capable of  
 supplying the whole of the United States, a duty of three  
 cents per bushel was imposed on imported coal.

All the blanks having been filled, Fitzsimmons pro-  
 posed to allow a drawback on all New England rum ex-  
 ported equivalent to the duty on the molasses from which  
 it was made. This was opposed by Madison as opening  
 a door to frauds. He thought the advantage derived by  
 the distillers from a free exportation to the several states  
 of the Union quite compensation enough for the duty on  
 molasses. This motion was defeated for the present, but  
 a proposition was agreed to for allowing a drawback of  
 duties on all foreign articles re-exported.

April 21. The question of the tariff being thus disposed of, that  
 of duties on tonnage was next taken up. On this subject  
 two important questions arose. What should be the  
 amount of discrimination in favor of American vessels?  
 And, as between foreign ships, should any discrimination  
 be made in favor of those nations having commercial

treaties with the United States? The representatives of Massachusetts, the principal ship-owning state, advocated a very decided discrimination in favor of American shipping. The duty on American vessels having been fixed at six cents per ton, Goodhue proposed sixty cents as the lowest duty on foreign vessels. This he estimated as amounting to five per cent. on the freight, which he insisted was no more than a fair counterbalance to the additional charges to which American vessels were subjected in foreign ports. The representatives of New York, New Jersey, and Pennsylvania, states less amply provided with vessels of their own, and dependent to a considerable extent on foreign shipping, thought that thirty cents per ton would be discrimination enough. The Southern members, having hardly any ships, wished to reduce the duty to twenty cents. They inclined to regard the proposed discrimination as in effect no more than a tax on freight, and ultimately on produce, for the special benefit of the New England ship-owners. CHAPTER  
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Fitzsimmons estimated the tonnage employed in the conveyance of American products at about 600,000 tons, one third of which was owned by foreigners; and he doubted very much whether any restrictions would produce, within a very short period, the additional tonnage necessary to supply the whole American trade. The merchants could not invest their capital in ships without withdrawing it from other more essential employments. He inclined to restrict the duty on vessels belonging to nations having treaties with us to one third of a dollar, reserving the higher rate for those not having treaties.

This raised the preliminary question, whether any distinction should be made at all as to foreign nations, and if so, to what extent? The only nations having treaties of commerce with the United States were France,

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Holland, Sweden, and Prussia, while by far the larger part of the foreign tonnage employed in the American trade was British. Some doubts being thrown out as to the policy of any such discrimination, Madison entered with zeal into a defense of it. From long possession, old habits, similarity of laws and manners, identity of language, and other adventitious circumstances, Great Britain had, in his opinion, acquired an undue and unnatural proportion of our trade. He dwelt with emphasis upon the exclusion of American vessels from the British ports in the West Indies, and the other disadvantages to which American ships were subjected under the British navigation laws. The public sentiment in favor of discrimination was decisive. That policy had been adopted, while they possessed the power of legislating on the subject, by Virginia, Maryland, and Pennsylvania. It might obtain from France relaxations in favor of American commerce, which the minister at that court had been long soliciting, and of which there were some favorable prospects. It would be good policy to hold out an inducement to commercial treaties by giving our allies an advantage.

Lawrence regarded the idea as unfounded that there was any thing unnatural or adventitious in the preponderating share of the British in our commerce. That was not a point for the government to settle. If American merchants found it for their interest or convenience to form connections with the subjects of one foreign nation in preference to those of another, why should the government interfere? The prospect of commercial relaxations on the part of France did not seem sufficient reason for a proceeding which might provoke retaliation on the part of Great Britain, and deprive us of the privilege which, in spite of all her restrictions, we enjoy-

ed of carrying our own productions thither in our own <sup>CHAPTER</sup>  
ships.

Baldwin of Georgia energetically defended the policy 1789.  
of discrimination. He thought they had very strong  
evidence of the public sentiment on that subject in the  
very existence of the House of Representatives. The  
commercial restrictions placed by Great Britain on our  
commerce in pursuit of her selfish policy gave rise to an  
unavailing clamor, and excited on the part of several  
states feeble attempts to counteract the detestable regu-  
lations of a commercial enemy. These proving ineffi-  
cient, the convention at Annapolis, the merit of which he  
ascribed to Madison, had been assembled, for the express  
purpose of counteracting those regulations on general  
principles. As that assembly found the completion of  
the business impossible in their hands, they had proposed  
the calling the Convention which, in framing the present  
Constitution, had effected a happy revolution in politics  
and commerce. The general expectation of the country  
was, that a discrimination should be made; that those  
nations which had not yet explained the terms on which  
intercourse might be carried on, or which had established  
regulations bearing hard on such intercourse, may know  
our ability and disposition to bestow or withhold advant-  
ages according as we find a principle of reciprocity pre-  
vailing or not.

Fitzsimmons proposed to state, for the information  
of the committee, the circumstances under which the  
British had obtained so great a preponderance in our  
trade, and the difference between the regulations of  
France and England relative to American commerce.  
During the war of the Revolution, the Americans were  
not only deprived of a large part of the shipping they  
had formerly possessed, but, to a great extent also, of

CHAPTER I. the means of building more. Immediately after the peace, British merchants, agents, and factors, took the opportunity to establish themselves among us. By these men, and the capital at their command, we were furnished with vessels for the transportation of our products, almost the whole of our trade in some states being carried on by this means. Under the existing British laws, American vessels might carry into the ports of Great Britain all the products of the United States, but nothing else. No higher duties were exacted than on importations in British bottoms, except harbor-dues for the support of lights, which in some cases were pretty heavy, but which were paid alike by all vessels not British. American vessels were admitted into the ports of France nearly on an equal footing with French vessels. American ships sold in France were entitled to all the privileges of French-built ships. Our vessels might be sold in England also, but, under the navigation laws, such purchased ships could not be employed in the colonial trade, and their price was lessened in consequence. American vessels were not permitted to enter the ports of the British West Indies; but American produce of every description, carried thither in British ships, was admissible, and this trade was very beneficial to some of the states. American ships were admitted to the French West India ports on the same footing with French ships, but the articles of American produce allowed to be carried there were few and of little value, only lumber, live stock, and fish, the latter subject to a heavy and almost prohibitory duty. He thought there was no danger of retaliatory restrictions on the part of Great Britain. "What she takes from us now, she takes because she can get it so cheap nowhere else. Rice and tobacco could not be had elsewhere in sufficient quantities. Lum-

ber for her islands in the West Indies she had in vain attempted to procure from her own North American colonies. Thus circumstanced, we did not run the risk of losing her commerce by any regulations we might make ; yet, for our own sake, we ought not to carry them so far as to deprive ourselves of the convenience afforded by British ships, while unsupplied with shipping of our own. We might draw a revenue out of them by a tonnage duty, as, under the circumstances stated, it must certainly be paid, not by the producers, but by the consumers of the articles carried.”

The tonnage duty on foreign vessels belonging to nations having treaties with the United States having been fixed, by a vote of the committee, at thirty cents per ton, Lawrence moved to impose the same rate on all foreign ships whatever ; but to this motion Madison made a vigorous opposition. “The more the subject had been examined, the necessity for discriminating duties had more clearly appeared. If it were expedient for America to have vessels employed in commerce at all, it will be proper that she have enough to answer all the purposes intended ; to form a school for seamen, to lay the foundation for a navy, and so to be able to support herself against the interference of foreigners. There did not seem much weight in the observation that such a discriminating duty was a burden on the community, and particularly oppressive to some parts of it ; out, allowing the fact, it seemed to be a burden of that kind which might ultimately save us from a greater. He considered an acquisition of maritime strength essential to the country. If we are ever so unfortunate as to be engaged in war, what but this can defend our towns and cities on the sea-coast ? What but this can enable us to repel an invading enemy ? Those parts of

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the country said to bear an undue proportion of the burden were the very ones most exposed to the operations

1789. of a war of depredations, and likely to need the greatest exertions of the Union in their defense. If they were required to make some little sacrifice to obtain this important object, they would be peculiarly rewarded for it in the hour of danger." These opinions in favor of a naval defense Madison afterward found himself obliged to resign to his party connections. Yet, in the course of his own administration as president, they acquired, by the test of an unfortunate experience, a weight of authority such as no mere argument could give, and too decisive to be any longer withstood.

Tucker was in favor of discrimination, but he thought the other duty was already fixed too high, and, with a view to reducing that to twenty cents, he moved to insert thirty-five cents in the blank. In the course of the discussion that followed, Fitzsimmons observed that, although the Virginia discriminating duty had been as high as one dollar per ton, no difficulty had been experienced in that state in getting British vessels to carry their produce. Finally, the blank was filled with fifty cents, and both sets of resolutions, those relating to the tariff and those as to tonnage duties, were reported to the House.

April 24. These reports coming up for consideration in the House, Boudinot complained that the general scale of taxation was too high; not for the articles to bear, but for the due collection of the revenue. This was the case especially with spirits; and as he feared that smuggling would be an inevitable consequence, he moved to reduce the duty on those of highest proof from fifteen to twelve cents per gallon. This motion was warmly supported by Jackson, who stated that Georgia abounded in timber of most luxuriant growth, which could only be exchanged

for West India rum—an exchange on which was found-  
 ed a very considerable commerce; liable to be seriously  
 affected by the imposition of heavy duties. The coast  
 of Georgia was so intersected by navigable creeks and  
 rivers, that it would be next to impossible to collect the  
 revenue, if the people were disposed to evade it; and  
 there was no surer way to produce that disposition than  
 to impose such heavy duties as to make it their interest  
 to do so. The same idea was strongly urged by Wads-  
 worth, who referred to the difficulty which Great Britain  
 had encountered in collecting her duty of three pence on  
 molasses.

Madison “would not believe that the virtue of our  
 citizens was so weak as not to resist that temptation to  
 smuggling which a seeming interest might create. Their  
 conduct under the British government was no proof of  
 a disposition to evade a just tax. At that time they  
 conceived themselves oppressed by a nation in whose  
 councils they had no share, and on that principle resist-  
 ance was justified to their consciences. The case was  
 now altered: all had a voice in every regulation; and he  
 did not despair of a great revolution in sentiment when  
 it came to be understood that the man who wounds the  
 honor of his country by a baseness in defrauding the  
 revenue, at the same time exposes his neighbors to fur-  
 ther impositions.” Boudinot’s motion did not prevail;  
 and though the attempt was afterward renewed, the only  
 reduction to which the House would consent was that  
 of one cent per gallon in the duty on molasses.

The proposal to discriminate between foreign nations,  
 so much discussed in relation to tonnage, was now  
 brought forward in a new shape, it being proposed to  
 levy a diminished rate of duty on spirits imported from  
 countries in alliance with us. Madison zealously sup-



CHAPTER 1 ported this motion, on the political grounds already stated. Lawrence was equally decided the other way.

1789. "Though as much impressed as any man with a lively sense of gratitude to the French nation-for their important services during the late Revolution, yet, before acceding to a measure like this, he would ask this question, Are the United States so reduced as to be obliged to pay tribute to their allies? For what are these sacrifices to be made? Is our commerce on such a favorable footing with France as to require this manifestation of regard on our part? True it is, we have a right to regulate our commerce, and to declare the terms on which foreigners may trade among us. But we ought to recollect the expediency of exercising those powers so as not to give umbrage to a nation from whose policy we derive considerable advantage, especially as we are not in a situation to wage a war of commercial regulations. A time might come, and soon, when our tonnage should be so increased, and our manufactures so improved, as to enable us to venture upon regulations adverse to that nation's commerce. When that moment arrived, he should be as ready to enter on that business as any man. At present it was certainly impolitic, both as affecting the revenue and engaging us in commercial hostilities."

"I acknowledge with pleasure," said Madison, in reply, "the services America has received from the French nation. I admit the debt we owe her. The preference, however, we are inclined to show her, in common with other nations with which we have commercial treaties, ought not to be considered as a tribute, but rather as a lesson to those powers that do not come within that description."

"Let us review the policy of Great Britain. Has

she ever shown any disposition to enter into reciprocal regulations? Has she not, by a temporizing policy, plainly declared that, until we are willing and able to do justice to ourselves, she will shut us out from her ports and make us tributary to her? Have we not seen her taking one legislative step after another to destroy our commerce? Has not her Legislature given discretionary powers to the executive, that so it might be ever on the watch, ready to seize any advantage which our weakness might offer? And have we not reason to believe that she will continue a policy void of regard to us, so long as she can gather into her lap the benefits we feebly endeavor to withhold, and for which she ought rather to court us, by allowing to our ships an open and liberal participation in the commerce we desire? If she finds us indecisive in counteracting her machinations, will she not continue to consult her own interests as heretofore? If we remain in a state of apathy, we shall not fulfill the object of our appointment. Most of the states of the Union have, in some shape or other, shown symptoms of their disapprobation of British policy. Those states have now relinquished the power of continuing their systems; but they have done so under the impression that a more efficient government would effectually support their views. If we are timid and inactive, we shall disappoint the just expectations of our constituents, and the expectations, I venture to say, of the very nation against whom this measure is principally directed. It must be productive of benefit to give some early symptom of the power and will of the new government to redress our national wrongs. We shall soon be in a condition, we now are in a condition, to wage a commercial warfare with that nation. The produce of this country is more necessary to the rest of the

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world than that of other countries is to America. Were we disposed to hazard the experiment of interdicting the intercourse between us and the powers not in alliance with us, we should have overtures of the most advantageous kinds tendered by those nations. If we have the disposition, we have abundantly the power, to vindicate our cause. Let us show the world that we know how to discriminate between our commercial friends and our commercial enemies. Let us show that if a war breaks out in Europe, and is extended to, and carried on in, the West Indies, we can aid and succor the one, and shut the other out of our ports. By these favors, without entering into the contest, or violating the law of nations, or going beyond the privileges of neutrals, we can give the most decided advantage to one or other of the warring nations."

Apart from her disinclination hitherto to enter into permanent arrangements on the subject of commerce, the principal, it may be said, the sole ground of complaint against the commercial policy of Great Britain, was, the exclusion of American vessels from her colonial ports. That exclusion, however, was not aimed particularly at the United States. It was only an application to them of that system of colonial policy on which Great Britain had so long acted. A similar exclusion from the colonies of Spain and Portugal, embracing the whole American continent south of the United States, and extending to products as well as vessels, was not thought of as a grievance. There was, to be sure, this difference, that the United States had once enjoyed, as British colonies, that trade with the British West Indies, from which, as an independent nation, they were now excluded. As all American ports were open to British vessels, it was insisted that, in the way of fair reci-

procity, all British ports, whether in the colonies or elsewhere, ought to be equally open to American vessels. CHAPTER  
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For near two generations, this West India trade continued a subject of remonstrances, negotiations, and retaliations, during all which period Great Britain held firmly to her own system, allowing a participation in her colonial trade, if at all, only on terms prescribed by herself. Finally, at a very recent period, having abandoned, upon new views of her own interest, that colonial policy so long considered a main pillar of her commercial greatness, Great Britain has voluntarily thrown open her colonial ports to all the world, thus of her own accord granting to the United States what no system of retaliation or counter-exclusion had been able to extort. 1789.

The views taken by Madison were supported by Fitzsimmons, and were so far sustained by the House that they agreed to a discrimination of three cents per gallon on spirits of highest proof, and two cents on all others, in favor of nations having commercial treaties with the United States.

The molasses duty coming next in order, the Massachusetts representatives made a new and strong effort to reduce it. Goodhue thus stated the case: "Molasses is obtained almost wholly from the French West Indies, in exchange for our fish. Nine months in the year our fishermen are employed upon the Banks, but the fish they catch during part of that time are unfit for any other market, nor can we get any other return for them but rum and molasses, as France does not allow us to export from her islands any other commodities, and the reason for allowing these is that, if carried to France, they might interfere with the French wines and brandies. If we did not take these articles, they would prohibit our fish. If

CHAPTER I the importation of molasses should fall through, our fisheries would fall with it. The committee have placed a  
1789. duty on this article equivalent to thirty per cent., higher in proportion than any other on the list. The reason given was that a revenue ought to be raised on the rum manufactured from it. But it would be more just to raise that revenue by an excise at the still-head, so as not to include the molasses consumed in the raw state. Custom has made it a necessary of life among the poorer classes of our people; those who can not afford the expense of sugar use molasses. The tax is unequal; it would fall chiefly on Massachusetts, which imports annually thirty thousand hogsheads, upon which, at the rate proposed, a greater duty would be paid than on all the rum and sugar imported into Pennsylvania, articles of which Massachusetts also imports her proportion." Goodhue was seconded with great zeal by Gerry, Wadsworth, and Ames. It was stated, in the course of the debate, that the cod-fishery employed four hundred and eighty vessels, amounting to twenty-seven thousand tons, and half as much tonnage more in carrying the fish to market, the whole amount taken yearly being four hundred thousand quintals. The capital employed in the business of distilling was estimated at half a million of dollars. Both the fisheries and the distilleries had suffered greatly by the Revolution. At one period they were almost annihilated, but had gradually recovered since the peace. The old market for New England rum on the coast of Africa had been regained, and new ones had been lately opened in the north of Europe. But the fishermen could no longer sell their fish, as formerly, in the British West Indies, and they had lost the annual bounty of twenty thousand pounds which the British government had been accustomed to pay.

To all these arguments, it was again urged in reply CHAPTER  
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that the duty on molasses was nothing more, in fact, than \_\_\_\_\_  
a substitute for the state duties heretofore levied on the 1789  
import of New England rum, and which, by the adoption  
of the new Constitution, had fallen to the ground. Though  
paid, in the first place, by the Massachusetts importers,  
it must ultimately fall on the consumers of the rum, who  
were scattered throughout the United States. To this  
were added various reflections on the deleterious effects  
of rum, by which Ames was provoked into the following  
diatribe, betraying already, at that early day, the ultra-  
conservative cast of his temper. He "was for treating  
as idle the visionary notion of reforming the morals of the  
people by a tax on molasses. We are not to consider  
ourselves while here as at a church or school, to listen to  
the harangues of speculative piety; we are to talk of the  
political interests committed to our charge. When we  
take up the subject of morality, let our system look to-  
ward that object, and not confound itself with revenue  
and protection of manufactures. If gentlemen conceive  
that a law will direct the taste of the people from spirit-  
uous to malt liquors, they must have more romantic no-  
tions of legislative influence than experience justifies."

The House would not reduce the duty, but, for the  
consolation of the distillers, agreed to what they had re-  
fused in committee—a drawback to the amount of three  
cents per gallon on all rum exported to foreign countries.  
The list of articles being gone through with, a special  
committee was appointed to bring in a bill.

The resolutions respecting tonnage duties coming up, May 4  
Lawrence made another vigorous effort to do away with  
the discrimination in favor of allied nations. "As we  
had no treaties with Spain and Portugal, they, as well  
as Great Britain, might take offense, and might retort by

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levying duties on our fish, of which they received large quantities. A commercial treaty with Great Britain, 1789. now that the new government had commenced its operations, would be more likely to be secured by more moderate means. It was the inability of the old confederation to fulfill its engagements which had hitherto been urged by the British government as their chief objection to a treaty of commerce. Possessed of capital as Great Britain was, she was far better able to bear the loss of a suspension of trade than we were, and, in such a contest, would have a decided advantage. Even as matters now stood, our trade with England was very advantageous. Why run the risk of losing it, without an object worthy of the sacrifice? Our vessels and products were admitted into Great Britain on terms more favorable than those of any other foreign nation; and we possessed, also, the advantage of trading to her possessions in the East, which might be regarded as a partial compensation for the loss of the West India traffic. Why run the risk of exclusion there also?"

Madison, in reply, still dwelt on the popularity of the proposed discrimination, a policy adopted in all or most of the states, New Hampshire having set the example, which had been rapidly imitated. Supported by Fitzsimmons, he still insisted that, in a war of commercial regulations, the advantage would be wholly on our side. He was sorry that Spain and Portugal should fall into the same category with Great Britain; but, as they had no treaties with us, he could not discover any principle which would sustain a distinction in their favor. The House, after an animated debate, sustained Madison's views by a decisive vote.

The representatives from Georgia and South Carolina admitted the policy of discriminating in favor of our al-

lies, and also of protection to our own shipping ; but they warmly protested against the extent to which this policy was proposed to be carried. A gloomy picture was drawn of the distresses and embarrassments of these two states. The planters, according to Jackson, “ courted by luxury, which had exposed all its charms to impassion their souls, and prompted on by the flattering terms of obtaining a gratification of their wishes by a long credit, had put themselves into the power of commercial harpies, and were persecuted by British tyrants in the shape of creditors.” Many of the old ante-Revolutionary debts still remained unpaid. After laying so many duties to encourage manufactures, a heavy tonnage duty must now be added to protect American shipping ! It would be impossible to obtain a sufficient supply of American ships ; and besides, they could not compete with British vessels, owned by the creditors of the planters, who took the produce in payment of their debts, and insisted also on the additional profit of transporting it.

On the other hand, the discrimination in favor of American shipping, to the full extent agreed to, was zealously maintained, not by the Eastern members only, but by Madison and most of his colleagues from Virginia, who evidently expected that state to take a leading part in commerce and navigation. It was as yet a matter of doubt whether Baltimore or Norfolk would become the great port of the Chesapeake ; indeed, there were those who entertained hopes that Norfolk might even rival New York.

The tariff bill having been reported, and being under discussion on the question of its second reading, Parker, of Virginia, moved to insert a clause imposing a duty of ten dollars on every slave imported. “ He was sorry the Constitution prevented Congress from prohibiting



CHAPTER the importation altogether. It was contrary to revolution principles, and ought not to be permitted." The 1789. only state which seemed to have a direct pecuniary interest in this question was Georgia. In all the other states at present represented on the floor, the importation of slaves, whether from Africa or elsewhere, was prohibited. Even South Carolina, just before the meeting of the Federal Convention, had passed an act, as she had been accustomed to do occasionally in colonial times, when the prices of produce were too low to be remunerative, prohibiting, for one year, the importation of slaves—a prohibition since renewed for three years. But, notwithstanding this temporary prohibition, the same jealousy as to her right of importation, so strongly manifested in the Federal Convention, was now exhibited on the floor of the House. Smith, the representative from the Charleston district, "hoped that such an important and serious proposition would not be hastily adopted. It was rather a late moment for the first introduction of a subject so big with serious consequences. No one topic had been yet introduced so important to South Carolina and the welfare of the Union." Sherman threw out some suggestions similar to those he had offered in the Federal Convention. He "approved the object of the motion, but did not think it a fit subject to be embraced in this bill. He could not reconcile himself to the insertion of human beings, as a subject of impost, among goods, wares, and merchandise. He hoped the motion would be withdrawn for the present, and taken up afterward as an independent subject."

Jackson "was not surprised, however others might be so, at the quarter whence this motion came. Virginia, an old settled state, had her complement of slaves, and the natural increase being sufficient for her purpose, she

was careless of recruiting her numbers by importation. CHAPTER  
But gentlemen ought to let their neighbors get supplied —  
before they imposed such a burden. He knew this 1789  
business was viewed in an odious light at the eastward,  
because the people there were capable of doing their own  
work, and had no occasion for slaves. But gentlemen  
ought to have some feeling for others. Surely they do  
not mean to tax us for every comfort and enjoyment of  
life, and, at the same time, to take from us the means  
of procuring them! He was sure, from the unsuitableness  
of the motion to the business now before the House,  
and the want of time to consider it, the gentleman's  
candor would induce him to withdraw it. Should it  
ever be brought forward again, he hoped it would com-  
prehend the white slaves as well as the black, imported  
from all the jails of Europe; wretches convicted of the  
most flagrant crimes, who were brought in and sold with-  
out any duty whatever. They ought to be taxed equal-  
ly with Africans, and he had no doubt of the equal con-  
stitutionality and propriety of such a course." These  
assertions of Jackson as to white slaves imported from  
all the jails of Europe must be taken with a good deal  
of allowance. The importation of indented white serv-  
ants, entirely stopped by the war of the Revolution, had  
as yet but very partially revived, and never recovered  
any great vigor. Some cargoes of Germans had been  
recently brought to Philadelphia; but the importation  
of indented servants from Great Britain had lately re-  
ceived a decisive blow from an act of Parliament, the  
intent of which was to prevent the indenting, for trans-  
portation to America, of persons who might carry thither  
the manufacturing skill of Great Britain, but the terms  
of which were comprehensive enough to embrace laborers  
of all sorts.

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In reply to the suggestions of Sherman, Jackson, and others, Parker declared "that, having introduced the motion on mature reflection, he did not like to withdraw it. The gentleman from Connecticut had said that human beings ought not to be enumerated with goods, wares, and merchandise. Yet he believed they were looked upon by African traders in that light. He hoped Congress would do all in their power to restore to human nature its inherent privileges; to wipe off, if possible, the stigma under which America labored; to do away the inconsistency in our principles justly charged upon us; and to show, by our actions, the pure beneficence of the doctrine held out to the world in our Declaration of Independence."

Sherman still "thought the principles of the bill and the principles of the motion inconsistent. The principle of the bill was to raise revenue; it was the principle of the motion to correct a moral evil. Considering the proposed duty as having revenue for its object, it would be unjust, because two or three states would bear the whole burden. He should therefore vote against the present motion, though he had no objection to taking up the subject by itself on the principles of humanity and policy." Ames "detested slavery from his soul; but he had some doubts whether imposing a duty on their importation would not have an appearance of countenancing the practice." "It is the fashion of the day," said Jackson, "to favor the liberty of slaves. He believed them better off as they were, and better off than they had been in Africa. Experience had shown that liberated slaves would not work for a living. Thrown upon the world without property or connections, they can not live but by pilfering. Will Virginia set her negroes free? When the practice comes to be tried

there, the sound of liberty will lose those charms which make it grateful to the ravished ear." CHAPTER I.

Madison supported Parker's motion in an elaborate speech, in which he replied to all the various objections urged against it. "The confounding men with merchandise might be easily avoided by altering the title of the bill; it was, in fact, the very object of the motion to prevent men, so far as the power of Congress extended, from being confounded with merchandise. The clause in the Constitution allowing a tax to be imposed, though the traffic could not be prohibited for twenty years, was inserted, he believed, for the very purpose of enabling Congress to give some testimony of the sense of America with respect to the African trade. By expressing a national disapprobation of that trade, it is to be hoped we may destroy it, and so save ourselves from reproaches, and our posterity from the imbecility ever attendant on a country filled with slaves. This was as much the interest of South Carolina and Georgia as of any other states. Every addition they received to their number of slaves tended to weakness, and rendered them less capable of self-defense. In case of hostilities with foreign nations, their slave population would be a means, not of repelling invasion, but of inviting attack. It was the duty of the general government to protect every part of the Union against danger, as well internal as external. Every thing, therefore, which tended to increase this danger, though it might be a local affair, yet, if it involved national expense or safety, became of concern to every part of the Union, and a proper subject for the consideration of those charged with the general administration of the government." Bland was equally decided with Madison and Parker in support of the motion. Burke suggested that gentlemen were contend-

CHAPTER I. ing about nothing; for if not particularly mentioned, slaves would still fall under the general five per cent.

1789. ad valorem duty on all unenumerated articles, a duty just about equivalent to the one proposed. Madison replied that no collector of the customs would presume to apply the terms goods, wares, and merchandise to persons; and in this he was supported by Sherman, who denied that persons were recognized any where in the Constitution as property. He thought that the clause in the Constitution on which the present motion was founded applied as much to other persons as to slaves, and that there were other persons to whom it ought to be applied, as convicts, for instance; but the whole subject ought to be taken up by itself. Finally, upon Madison's suggestion, Parker consented to withdraw his motion, with the understanding that a separate bill should be brought in. A committee was appointed for that purpose; but there the matter was suffered to rest.

May 15. When the Revenue Bill came up on its third reading, a motion by Madison to insert an amendment, restricting the period of its continuance, gave rise to two days' debate. Madison, Bland, Gerry, Huntington of Connecticut, Smith, Page, Jackson, and Tucker urged in favor of the motion that the spirit of the Constitution was not consistent with the idea of a perpetual revenue act. The command of the purse-strings belonged to the representatives of the people, and they ought not to relinquish it. Gerry conjured up the idea of a vast fund still accumulating after the public debt had been paid, upon which the executive would seize by force, and make himself absolute. It was contended, on the other hand, by Ames, Sherman, Lawrence, Clymer, and Boudinot, that the continuance of the act ought at least to be coterminous with the object for which it was passed. That

object was the payment of the public debt and the res- CHAPTER  
 toration of the public credit. It was absurd to speak of <sup>I.</sup>  
 a law as perpetual which Congress had the right to re- 1789  
 peal at any time. A revenue act, limited to two, or  
 three, or even to five or six years, never would give con-  
 fidence to the public creditors. The ayes and noes hav-  
 ing been called for the first time, Madison's motion was  
 carried by the very decided majority of forty-one to eight.  
 By the filling of the blank, the operation of the act was  
 limited to the 1st of June, 1796.

Thus amended, the bill was read a third time, passed,  
 and sent to the Senate for concurrence. Of the debates  
 in that body no record exists, but the bill came back to  
 the House a good deal altered. The discrimination in  
 the duty on spirits in favor of allied nations was struck  
 out, also the drawback on domestic spirits exported.  
 Most of the specific duties were considerably reduced,  
 that on molasses one half. Cotton and indigo were  
 added to the list of protected articles. These and some  
 other amendments were agreed to by the House, but the  
 discrimination in favor of nations in alliance was not  
 given up without great reluctance, and only on the re-  
 port of a Committee of Conference. The House also  
 found itself obliged to allow the corresponding discrimina-  
 tion to be struck out of the Tonnage Act, the Senate  
 holding out the idea that this system of commercial re-  
 taliation might form the subject of a separate bill. It  
 was, indeed, referred to a committee, but no report was  
 made till the next session.

The duties imposed under this first Revenue Law, as  
 finally passed, were as follows: Distilled spirits of Ja-  
 maica proof, ten cents per gallon; other distilled spirits,  
 eight cents; molasses, two and a half cents; Madeira  
 wine, eighteen cents; other wines, ten cents; beer, ale,

CHAPTER I. and porter, in casks, five cents per gallon; in bottles,  
 twenty cents per dozen; bottled cider, the same; malt,

1789. ten cents per bushel; brown sugar, one cent per pound; loaf sugar, three cents; other sugars, two and a half cents; coffee, two and a half cents; cocoa, one cent; teas from China and India, in American vessels, bohea, six cents per pound; souchong, and other black teas, ten cents; hyson, twenty cents; other green teas, twelve cents; on teas from Europe, in American vessels, the duties were somewhat higher, and higher still when imported in foreign vessels; on candles, of wax or spermaceti, six cents per pound; tallow candles, two cents; cheese, four cents per pound; soap, two cents; boots, per pair, fifty cents; shoes, of leather, seven cents; of silk or stuff, ten cents; cables and tarred cordage, seventy-five cents per hundred weight; untarred cordage, ninety cents; twine and pack-thread, two dollars; unwrought steel, fifty cents per hundred weight; nails and spikes, one cent per pound; salt, six cents per bushel; manufactured tobacco, six cents per pound; indigo, sixteen cents per pound; wool and cotton cards, fifty cents per dozen; coal, two cents per bushel; pickled fish, seventy-five cents per barrel; dried fish, fifty cents per quintal; playing cards, ten cents per pack; hemp, sixty cents per hundred weight; cotton, three cents per pound. In addition to these specific duties, an ad valorem duty of ten per cent. was imposed on glass of all kinds (black quart bottles excepted), china, stone, and earthen-ware, gunpowder, paints, shoe and knee buckles, and gold and silver lace and leaf. Seven and a half per cent. ad valorem was charged upon blank books, paper, cabinet wares, leather, ready-made clothing, hats, gloves, millinery, canes, brushes, gold and silver and plated ware and jewelry, buttons, saddles, slit and rolled iron, and cast-

ings of iron, anchors, tin and pewter ware. Upon all other articles, including manufactures of wool, cotton, and linen, five per cent. ad valorem was to be charged, except on saltpeter, tin, lead, old pewter, brass, iron and brass wire, copper in plates, wool, dye-stuffs, hides, and furs, to be free of duty. It was provided in a subsequent act that in all cases of duties ad valorem, the value should be ascertained by adding ten per cent., or, if the goods came from the Cape of Good Hope or beyond, twenty per cent. to the cost at the place of exportation. For the encouragement of domestic shipping, when the goods were imported in American vessels, a tenth part of the duties was to be remitted. Upon all goods re-exported within twelve months from the date of importation, a drawback was to be allowed of the whole amount of duties, one per cent. being deducted. The act was to go into effect from and after the first of August.

The Tonnage Act imposed a duty of six cents per ton upon all vessels American built and owned entering any American port from any foreign country. Upon vessels American built, but owned abroad, the duty was thirty cents per ton, and fifty cents upon all other vessels. American fishing and coasting vessels were to pay but once a year; but foreign vessels, if employed in the coasting trade, from which it was not thought expedient entirely to exclude them, were to pay a new tonnage duty upon every entry.

For the due collection of these duties, the whole coast of the United States was divided by another act into collection districts, to the number of about seventy. The more important districts were to have three principal officers: a collector, to have, by himself or his deputy, the general superintendence of the entry and clearance of vessels, the receipt of duties, and the appointment of all

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CHAPTER inferior officers, such as weighers, gaugers, measurers,  
I. and inspectors; a naval officer, to act as a check upon the  
1789. collector, and in that capacity to countersign all docu-

ments; and a surveyor, whose duty it was to superintend the inferior officers, and to place an inspector on board all vessels as soon as they arrived, charged to ascertain the quantities of goods on board on which duties were payable, and to allow none to be landed without a permit. The less important districts had a collector and surveyor, and the least important a collector only.

Masters of vessels arriving from foreign ports were required to deliver to the first custom-house officer coming on board two manifests or written statements of the cargo, with the names of the consignees. They were also required to enter their vessels at the custom-house within forty-eight hours after their arrival, and to swear to the truth of the manifest; nor might any goods be landed, except in open day and with a permit, under pain of forfeiture. To obtain a permit, the consignee must enter the goods at the custom-house, under oath, and pay the duties. All tonnage duties and all amounts of fifty dollars or less were to be paid in cash. When the duties exceeded that sum, four months credit was allowed on imports from the West Indies; six months on other goods, and in the case of Madeira wine, twelve months credit. False entries, and all other attempts at evasion of duties, were punishable with forfeiture, and false swearing by fine and imprisonment. This system of collection, except the credit on duties, was mainly derived from the usages of the old royal and recent state custom-houses, and, with some slight modifications in the details, and the abolition of the credit system, still continues in force. To aid the provisions of this act, the merchants of all the principal ports entered into as-

sociations for the prevention of smuggling; and the revenue system was found to work much more easily, and proved more productive than had been expected. 1789.

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A fourth act relating to trade and navigation provided for the registration of all American vessels engaged in foreign commerce, and the enrollment of those employed in the fisheries and coasting trade, except those under twenty tons burden, which were to have a license. This was with the view of ascertaining, not the tonnage only, but the ownership and the American character of the vessels, an authenticated copy of the register, which the vessel carried with her, serving for that purpose both at home and abroad. On every change of ownership a new register was required, without which the legal title did not pass. By the same act the coasting-trade was regulated, the vessels employed in that business being subjected, in entering and clearing, and in respect to their cargoes, to restrictions deemed necessary to prevent smuggling.

Another act assumed for the United States the support of all light-houses, buoys, beacons, and public piers, on condition that within one year the states within which they were respectively situated should vest in the United States not only the property in these structures, with the lands appertaining to them, but exclusive jurisdiction also within their circuit, reserving, however, the right of the state to serve civil and criminal process therein. Such cessions, under a provision in the Constitution to that effect, have ever since been uniformly required in case of all light-houses, forts, arsenals, dock-yards, and other structures erected for the use of the United States.

Having thus made provision for collecting a revenue—indeed, before all these bills were perfected—the House

CHAPTER I. turned its attention to the reorganization of the executive departments. A Department of Foreign Affairs was 1789. first established—a mere continuation of the old Continental department of that name; but after the failure May 20. of repeated attempts by Vining of Delaware to establish a separate department for Home Affairs, these two services were combined; and by a subsequent act of the same session, the Department of Foreign Affairs became the Department of State, having charge not only of all foreign negotiations and of all the papers connected therewith, but the custody also, as well of all the papers and documents of the late Continental Congress, as of all engrossed acts and resolutions of the new government having the sanction of law; also the ensealing of all commissions for civil affairs, the seal adopted by the late Continental Congress being still continued in use. Sixty years elapsed before Vining's plan was carried out, by the transfer of Home Affairs to a separate department.

The Treasury Department was reorganized substantially on the plan adopted by the Continental Congress in 1781; but the title of its head was changed from Superintendent of Finance to Secretary of the Treasury. It was made the duty of this officer to digest plans for the improvement and management of the revenue, and for the support of the public credit; to prepare and report estimates of revenue and expenditure; to superintend the collection of the revenue; to decide upon the form of stating accounts; to execute such services relative to the sales of the public lands as might be required of him by law; to grant warrants on the treasury for all appropriations made by law; and to report in person or writing, as might be required, to either house of Congress, as to all matters referred to him or appertaining to his office.

The secretary was allowed an assistant, to be appointed by himself. The other subordinate officers of the department were a Controller, an Auditor, a Register, and a Treasurer. To the Controller belonged the final decision upon the legality of all claims on the government, and the superintendence of all legal proceedings to recover debts due to the United States. It was his duty also to countersign all warrants on the treasury, without which they had no validity. To the Auditor belonged the examination of vouchers; it being his duty to ascertain and certify to the formal correctness of all accounts against the government. It was the duty of the Register to preserve these vouchers; to keep an account of all receipts, expenditures, and debts, and to record all warrants on the treasury as a preliminary to their payment. The Treasurer had the custody of the moneys of the United States, and was to receive and pay them out according to the forms prescribed by law. By the regulations of the treasury, as thus organized, no public money could be paid out except under an appropriation made by Congress, and after a sanction of the claim as to its amount and validity, first by the Auditor, and then by the Controller, and on a warrant signed by the Secretary of the Treasury, countersigned by the Controller, and recorded by the Register. All receipts for money paid into the treasury, in order to be valid, must be indorsed on warrants signed by the Secretary, countersigned by the Controller, and recorded by the Register. This system, extended by the appointment of additional controllers and auditors, having charge of particular classes of accounts, and of a Solicitor of the Treasury, to superintend legal proceedings, still remains in force very much as originally established. All officers of the treasury were specially prohibited from being concerned in any commerce

CHAPTER or navigation, or in the purchase of public lands or securities, state or national.

1789. The Department of War was also reorganized, very much on the old footing, the secretary of that department to have the superintendence of naval as well as of military affairs. Of the old Continental navy not a vessel remained; the existing military establishment, a regiment of foot and a battalion of artillery, were continued in service upon the terms and pay fixed by the late Continental Congress, and pay and subsistence at the same rates were to be allowed to such militia as the president might call into service for defense of the frontiers. Provision was also made for the invalid pensions due under the regulations of the Continental Congress, and hitherto payable by the states.

The reorganization of the general post-office was delayed till more complete information could be obtained, the establishment being, meanwhile, continued as it then stood. Franklin, the first Continental postmaster general, had been succeeded in that office by his son-in-law Richard Bache, and he by Ebenezer Hazard, who still held it.

As introductory to the passage of these acts, the general system of the executive departments had been considered by the House in Committee of the Whole. The Department of the Treasury being under consideration, Gerry, who had acted in the earlier days of the Continental Congress as the head of the Committee on the Treasury, was very strenuous for a board of commissioners instead of a single secretary. He seemed to be jealous lest the heads of departments should outshine the Senate, make themselves necessary to the president, and establish a hateful oligarchy. Wadsworth and Boudinot, whose practical experience entitled their opin-

ions to great weight, were very positive as to the superiority of a single office over a board in all the great points of decision, promptitude, responsibility, and economy. They drew a very strong contrast between the administration of the Continental finances by Robert Morris and by the various treasury boards, his predecessors, whose negligence and incapacity, so Wadsworth affirmed, had doubled the public debt. According to Wadsworth, the clamor raised against Morris had chiefly originated with those whose services he had dispensed with, or whose profits out of the public he had curtailed. Gerry's scheme found but very little support; yet a good deal of jealousy was felt of the treasury, and when the bill establishing the department came to pass, special exception was taken to the clause authorizing the secretary to digest and report plans for the improvement and management of the revenue, as if it were an infringement of the exclusive power of the House to originate money bills.

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A much more doubtful point was raised on a motion to declare the heads of the departments removable at the pleasure of the president. It was maintained by Smith of South Carolina and others, that, as the Constitution made no provision for removals from office except by impeachment, all officers, unless a limit were fixed by law to the duration of their offices, would hold during good behavior. Others thought that, as the power of removal naturally belonged to the power that appointed, in all cases where the consent of the Senate was necessary for an appointment, their concurrence would also be required for removal. The power of removal in the president alone was represented as exceedingly dangerous, making him little short of a monarch, and all the public officers his mere creatures. These views were urged by Bland and

CHAPTER I. White of Virginia, Gerry, Huntington of Connecticut,  
Livermore of New Hampshire, Jackson, and others

1789. Madison, Benson, Goodhue, Lawrence, and Vining maintained that, as the responsible executive head of the government, the president had, and ought to have, the constitutional power of removing all executive officers at pleasure. The bill for establishing the Department of Foreign Affairs being under consideration, this debate was earnestly renewed, and was kept up for four days. Smith of South Carolina now joined the party who insisted on the right of the Senate to be consulted on the question of removals. Sherman was inclined to the same opinion; but as the president was the head of the executive, the heads of the departments might, in that view, be considered as "inferior officers," and their appointment and removal subject, therefore, under the Constitution, to be regulated by law. He was, however, decidedly opposed to giving the president the power of removal. Ames, Boudinot, Baldwin, and Scott, seconded by those who had taken the same side in the former debate, insisted on the president's constitutional right; and they dwelt with great emphasis on the absolute necessity of such a power, if the president were to be held responsible for the execution of the laws. "The decision now made," said Madison, "will become the permanent exposition of the Constitution, and on that permanent exposition will depend the genius and character of the whole government."

It was suggested by those opposed to the president's power of removal that a suspending power during the vacation of the Senate might answer all necessary purposes. But where, it was asked, did those who denied the president's constitutional power to remove discover the constitutional power to suspend? That power, be-

sides, was totally insufficient. How awkward would be <sup>CHAPTER</sup>  
 the predicament of the president to have officers forced <sup>I</sup>  
 back upon him by the Senate whom he had suspended, 1789.  
 and whom they might still refuse to remove.

Sedgwick was inclined to think that as Congress had the power of creating these offices, it might also have, as an incident, the power of fixing the period of the office and the method of removal. That power, however, for reasons of expediency, he was strongly inclined to vest in the president. Allowing that the power of removal appertained to the power of appointing, that did not sustain the claim set up for the Senate. The advice and consent of the Senate was made necessary as a preliminary, but the power of appointing was in the president alone.

It was suggested by Scott, in answer to those who exaggerated the danger of giving the power of removal to the president, "that the president, above all the officers of the government, was justly to be denominated the chosen man of the people. He was elected by the voice of the whole Union. The senators, on the other hand, were the representatives of the state sovereignties, the very bodies which stood most in the way of the effectual operation of the federal government. How, then, could the Senate be held up as more nearly related to the people than the president, when no other man in the United States held office by the concurrent voice of the whole people?"

The House refused, by a vote of thirty-four to twenty, to strike out the clause giving the power of removal to the president. But afterward another difficulty was raised; for, if the president had this power under the Constitution, how could the House undertake to confer it upon him? To avoid this difficulty, Benson proposed



CHAPTER I. to strike out the clause in question, and to provide in another section that whenever the secretary "should be re-

1789. moved by the president," the custody of the papers should devolve on the chief clerk. Much to the chagrin of the opposition, this recognition of the president's power of removal prevailed, and the bill, though denounced by Sumter, who had just taken his seat, as subversive of the Constitution and destructive of the liberties of the people, passed to be enacted by a vote of twenty-nine to twenty-two.

In the Senate, this legislative exposition of the power of the president as to removals from office was carried only by the casting vote of the vice-president. Though, like all other powers, liable to serious abuses, this right of removal seems essential to that concentration of executive authority, without which the action of the government might constantly be liable to be defeated by its own officers. Loud complaints have occasionally been made of its exercise, but the right itself has never seriously been called in question.

The office of Secretary of the Treasury, which it was necessary should be filled at once, was given to Alexander Hamilton, of whose penetrating judgment and superior executive abilities the president had enjoyed ample experience, while employing his services as an aide-de-camp during the Revolutionary war. Since that period Hamilton had risen to the head of the New York bar, adding thus to his natural sagacity and his previous acquirements that knowledge of the law so essential to his new position. Knox was continued in office as Secretary of War. The Department of State remained for the present unfilled, but Jay continued to discharge the duties of it.

While the House was employed on the Revenue Bills,

the Senate had taken in hand the important matter of the Federal Judiciary. A bill on that subject, drafted by Ellsworth, was, after some amendments, concurred in by the House. By the provisions of this act, the Supreme Court of the United States was to consist of a chief justice and five associate judges, to hold two sessions annually at the seat of government. The jurisdiction of this court, so the Constitution required, was, except in one or two specified cases, entirely appellate. For the trial of cases in the first instance, two sets of tribunals were instituted, called District Courts and Circuit Courts.

Each state was made a district, as were also Kentucky and Maine; each district to have a judge of its own, to hold four courts annually, besides such special ones as might be found convenient. These district courts had cognizance of all civil cases of admiralty and maritime jurisdiction, including cases of seizure under the revenue laws, and of all suits for penalties and forfeitures under the laws of the United States. Their jurisdiction also extended to all lesser crimes against the United States; and, concurrently with the state courts, to all suits to which the United States were a party, and the matter in dispute, exclusive of costs, exceeded one hundred dollars in value. All trials of questions of fact, except in civil cases of admiralty and maritime jurisdiction, were to be by jury. These district courts constituted, in fact, the revenue courts of the federal government, being the successors of the old royal admiralty courts, after which they were in a great measure modeled, and whose forms of practice they continued to follow.

The districts, except those of Maine and Kentucky, the judges of which were to have, in addition to their other powers, all the authority of circuit courts, were

CHAPTER I grouped together into three circuits. Circuit courts were to be held semi-annually in each district (besides 1789. special courts when necessary for the trial of criminal cases), by any two judges of the Supreme Court, with whom was also to sit the judge of the district, any two of the three to constitute a quorum. These courts were to have jurisdiction, concurrent with the state courts, of all suits of a civil nature at common law or in equity between citizens of different states, or to which the United States or an alien was a party, the matter in dispute exceeding five hundred dollars in value. In criminal matters their jurisdiction was to be concurrent with that of the district courts, and exclusive as to all higher crimes. They were also to entertain appeals in all cases decided in the district courts, where the matter in dispute, if it belonged to the admiralty jurisdiction, amounted to three hundred dollars in value, or to fifty dollars, exclusive of costs, in ordinary civil actions. Juries, in all cases where they were needed, whether in the circuit or district courts, were to be summoned in accordance with the state usage of the district in which the court was held.

An appeal lay, as to all points of law, in all cases where the matter in dispute amounted to two thousand dollars, from the circuit courts to the Supreme Court of the United States; and to this court was also given authority, in certain specified cases, to send writs of error to the state courts, and to revise, and, if error appeared, to reverse their decisions. But the only cases in which this high power could be exercised were those in which had been brought in question the validity of a treaty or of a statute of the United States, or the validity of acts claimed to have been done by virtue of such treaty or statute, and the decision had been against their valid-

ity; or in which the validity of a state law had been questioned on the ground of repugnancy to the Constitution, treaties, or laws of the United States, and the decision had been in favor of its validity; or in which a title, right, or privilege had been claimed under a treaty or law of the United States, or under the United States Constitution, and the decision of the state court had been against such right, title, or privilege. Nothing, however, could be a subject of re-examination in such cases except what appeared on the face of the record bearing directly on one or other of the above points.

The appointment of their own clerks was given to the courts. An officer was to be appointed by the president for each district, in the nature of a sheriff, but called a Marshal, to attend on the courts when in session, and authorized to serve all processes and to appoint as many deputies as might be found convenient. A District Attorney, to act for the United States in all cases in which they might be interested, was also to be appointed for each district. It was to be the duty of the Attorney General not only to appear in the Supreme Court of the United States in all cases in which the United States were a party, but also to give his opinion, when required by the president or requested by the heads of departments, upon any question of law in which the government might be interested.

The judiciary system thus established remains, but with some modifications, still (1853) in force, the circuits, increased to nine, being now attended by a single judge of the Supreme Court, and the circuit courts being sometimes held by the district judge alone, whose criminal jurisdiction in his own court has also been largely increased—a change the more questionable, since, by the strangely anomalous construction put upon the Judiciary

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1789 Act, no point of criminal law, except in the accidental cases of disagreements on the bench of the circuit courts, can be carried before the Supreme Court; thus leaving many questions involving the highest political rights to the decision of inferior tribunals.

Conforming to the strong and prevailing sentiment of Virginia, and to the pledges which he had found it necessary to give, Madison had early called attention to the subject of amending the Constitution. The amendments already proposed, in an official or semi-official form, were sufficiently numerous. The minority in the Pennsylvania Convention had proposed fourteen; the Massachusetts Convention, nine; the Maryland minority, twenty-eight; the South Carolina Convention, four; the New Hampshire Convention, twelve; the Virginia Convention, twenty; that of New York, thirty-two; besides separate Bills of Rights proposed by Virginia and New York, the one in twenty, the other in twenty-four articles. The Harrisburg Convention, held in response to the New York circular, had suggested twelve amendments; the Convention of North Carolina, while giving their conditional ratification, twenty-six. But the whole number of separate propositions was by no means so great as this enumeration might lead one to suppose. The nine Massachusetts propositions had been repeated by New Hampshire; the twenty of Virginia by North Carolina; and in many other cases, two, three, or more states had agreed in suggestions identical or very similar.

The amendments originally suggested by Massachusetts were, 1st. That all powers not expressly delegated to Congress should be reserved to the states: recommended also by Virginia, South Carolina, North Carolina, and by the minorities in Pennsylvania and Maryland, and in a modified form, afterward sanctioned by

Congress and adopted by the states. 2d. That the ratio of representation in the Lower House should continue at CHAPTER  
I 1789. one for thirty thousand till the number of representatives amounted to two hundred: recommended also by Virginia, North Carolina, and New York. 3d. That Congress should exercise the power of regulating by law the election of senators and representatives only as to those states neglecting to make the necessary provisions: substantially recommended by Virginia, South Carolina, and New York. 4th. That no direct tax should be levied till the resources of duties on imports and excise should be exhausted, and then only by way of requisition in the first place, Congress, however, to assess and levy, with interest, the quota of any delinquent state: substantially recommended by South Carolina, Virginia, and New York. 5th. That Congress should erect no companies with exclusive privileges of commerce: recommended by New York and South Carolina. 6th and 7th. That no person be tried for any crime (cases in the military and naval service excepted) without previous indictment by a grand jury; and that, in civil cases, the right of trial by jury should be preserved: recommended also by Virginia and the Pennsylvania minority, and both provisions presently incorporated in substance into the amendments which were afterward ratified. 8th. That the federal courts should have no jurisdiction of suits between citizens of different states, when the amount in dispute did not exceed fifteen hundred dollars. 9th. That Congress should never consent to the acceptance by any federal officer of any title or office from any foreign power: recommended also by New York.

The amendments proposed by Virginia, in which she had not been anticipated by Massachusetts, were as fol-

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1789. lows: 1st. That members of Congress, during the period for which they were chosen, should be disqualified to hold any federal office. 2d. That the journals of Congress, with a regular account of receipts and expenditures, should be published annually: recommended also by New York. 3d. That no treaty ceding the territorial rights or claims of the United States, or any of them, or any right of fishing in American seas, or of navigating American rivers, should be ratified without the concurrence of three fourths of both houses of Congress. 4th. That no navigation law, or laws relating to commerce, should be passed without the consent of two thirds of the members present. 5th. That no standing army or regular troops should be raised or kept up in time of peace, without a like two thirds vote: recommended also by New York, by the Maryland minority, and by New Hampshire, which state proposed to require in such cases a vote of three fourths. 6th. That no soldier should be enlisted for more than four years, except in time of war, and then only for the war: originally proposed by the Maryland minority. 7th. That upon the neglect of Congress to provide for arming and organizing the militia, each state might act for itself. 8th. That the exclusive legislation of Congress over the Federal District should extend only to regulations respecting police and good government. 9th. That the same person should not be allowed to hold the office of president more than eight years in sixteen. 10th. That the federal judiciary power should not extend to cases originating before the ratification of the Constitution, except territorial disputes between states, disputes as to lands claimed under grants by different states, and suits for debts due the United States—an amendment carefully contrived to exclude suits by British creditors. 11th. That after the

first Congress, no future Congress should have power to <sup>CHAPTER</sup>  
 fix its own compensation; laws on that subject not to <sup>I.</sup>  
 go into effect till an election had intervened: recom- 1789.  
 mended also by New York. 12th. That some tribunal  
 other than the Senate be provided for trying the impeach-  
 ments of senators. 13th. That the salaries of judges  
 should not be increased or diminished during their con-  
 tinuance in office, except at stated periods of seven years.

The propositions originating in New York were, 1st.  
 A prohibition to impose any tax of excise, except on  
 domestic spirits. 2d. Disability to be members of Con-  
 gress, except on the part of natural-born citizens, or  
 persons naturalized prior to the Declaration of Independ-  
 ence, or who had held commissions in the Continental  
 service during the late war. 3d. A vote of two thirds  
 to be required in both houses to borrow money or to de-  
 clare war. 4th. The Habeas Corpus Act not to be sus-  
 pended for a longer period than six months, or twenty  
 days after the next meeting of Congress. 5th. The ex-  
 clusive jurisdiction of Congress over the Federal District  
 not to be so exercised as to exempt the inhabitants from  
 paying the like taxes and duties with the rest of the peo-  
 ple, or to exempt any one from arrest for crimes com-  
 mitted or debts contracted out of the district. 6th. The  
 like jurisdiction over forts, arsenals, &c., not to prevent  
 the extension over them of the civil and criminal laws  
 of the states in which they might be situated, except as  
 to persons in the service of the United States, and not as  
 to them so far as related to crimes committed out of such  
 places. 7th. Both houses of Congress to sit with open  
 doors, unless the business might require secrecy, the  
 yeas and nays to be taken and recorded at the request  
 of two members. 8th, 9th, and 10th. The state Legis-  
 latures to be entitled to recall their senators at pleasure



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and to elect others ; the temporary right of the state executives to fill vacancies, to be taken away, and no person

1789. to hold the place of senator more than six years in twelve. 11th. The power of Congress to pass bankrupt laws to extend only to merchants and traders, the states to retain the power of passing laws for the relief of other insolvents. 12th. No person to be eligible to the office of president for a third time. 13th and 14th. The pardoning power not to be exercised without the consent of Congress, nor the president, without like consent, ever to command an army in the field. 15th. All writs, commissions, letters patent, &c., to be in the name of the people of the United States. 16th. The jurisdiction of the federal courts to be only appellate, except in admiralty and maritime cases. 17th. In case of impeachments, the Senate to be assisted by the judges of the Supreme Court of the United States and the chief justices of the highest state courts. 18th. Any person dissatisfied with any judgment or decree of the Supreme Federal Court to be entitled to a review and re-examination of his case by such persons learned in the laws, not less than seven, as the president, with the consent of the Senate, might appoint. 19th. No judge of the Supreme Court to hold any other federal office. 20th. The jurisdiction of the federal courts not to extend to controversies respecting land, excepting such as might involve questions of state jurisdiction. 21st. The militia of no state to be compelled to serve out of the limits of the state for a longer period than six weeks, without the consent of the state Legislature. 22d. All federal officers to take an oath not to infringe upon the Constitution and rights of the respective states. 23d. The states to be authorized to require residence within the district making the choice as a qualification for federal representatives.

The propositions peculiar to Pennsylvania were, 1st. CHAPTER  
I That Congress should levy no taxes except duties on imports and postage on letters. 2d. That representatives to Congress should be elected annually. 3d. That no standing armies should be kept up in time of peace. 4th. That the power of organizing, arming, and disciplining the militia should remain with the states, the federal government to have no power to march any militia out of their own state, except by consent of the state authorities. 5th. Congress to have no power to pass game laws. 6th. To keep the executive and legislative powers entirely distinct, a constitution council to be erected, to perform those functions of advising the president, conferred by the existing Constitution on the federal Senate: concurred in by the Maryland minority, who proposed also that the federal expenses should be apportioned among the states in proportion to the number of their federal representatives, and that Congress should be allowed to impose no capitation tax: a proposition in which the New York Convention also concurred. 1789.

The New Hampshire propositions were mainly borrowed from Massachusetts; the only suggestions not already recited were two: one derived in substance from the Pennsylvania minority, that Congress should have no power to disarm any citizens except those who were, or had been, in actual rebellion; the other, that Congress should make no laws touching religion or infringing the rights of conscience—a proposition contained also in the Bills of Rights proposed by Virginia and New York, but a little remarkable as coming from New Hampshire, inasmuch as that state, by an express provision of its own Constitution, excluded all Catholics from office.

North Carolina concurred with Pennsylvania in recommending that no treaty in contravention of any law

CHAPTER I. of the United States should be valid till that law had first been repealed. Suggestions peculiar to that state were, 1789. that Congress should not declare any state in rebellion, nor introduce foreign troops into the United States except by a two thirds vote ; nor interfere, either by themselves or the judiciary, with any of the states, as to the redemption of the paper money already emitted and in circulation, or in liquidating or discharging the state debts.

Such is a summary of all the amendments proposed to the body of the Constitution, in any thing like an official shape. It has been thought worth while to insert it here, not only as a curious and authentic exhibition of prevailing political opinions, but as establishing beyond question this remarkable and most important fact, that, with all the clamor raised by the anti-Federalists, and the terror which the new system had inspired or seemed to inspire, not one of the amendments proposed to it was of a vital character, and that the whole of them, if adopted in mass, would not, in all probability, have seriously affected the practical operation of the new government, except so far as they enabled a minority, in certain cases, to control the action of a majority. Nobody proposed to interfere with the great compromises on which the whole system was based, the equal vote in the Senate, or the rule of apportionment for members of the House. Nobody proposed to alter the general distribution of powers as arranged in the Constitution, unless the proposal of a special council to perform the executive functions of the Senate might be viewed in that light. It was not even proposed to curtail the appointing power, the veto, or the extensive authority vested generally in the president, nor seriously to limit the powers of Congress or the jurisdiction of the federal courts. The proposed amendments were of two sorts : first, general restrictions on the legis-

lative and judicial authority, in favor of natural justice CHAPTER I.  
 and the personal rights of the individual—restrictions set  
 out more at length in the Bills of Rights proposed by Vir- 1789  
 ginia, New York, and North Carolina; and, secondly, par-  
 ticular restrictions as to some matters of peculiar or local  
 interest, such as the prohibition to levy direct taxes, and  
 the two thirds vote for borrowing money, declaring war,  
 ratifying commercial treaties, and maintaining standing  
 armies. It may hence be concluded, and this is a mat-  
 ter of great importance toward a correct understanding  
 of the subsequent history of the United States, that no  
 question of fundamental principle as to the theory of gov-  
 ernment was really in debate between the Federalists  
 and anti-Federalists, and that the different views they  
 took of the new Constitution grew much more out of dif-  
 ferences of position and of local and personal interest, than  
 out of any differences of opinion as to what ought to be  
 the ends and functions of government or the methods of  
 its administration. The Federalists, anxious to accom-  
 plish certain great objects—to consolidate the Union, to  
 uphold the public credit, to aid and encourage the national  
 commerce, navigation, and manufactures, to prevent pa-  
 per issues, and to enforce the obligation of contracts—  
 were chiefly intent upon securing a government capable  
 of accomplishing those objects; and they appeared, there-  
 fore, at the present moment, as the special advocates of  
 power and authority. The anti-Federalists, on the other  
 hand, alarmed at the idea of national taxes, fearful lest  
 the interests of agriculture might be sacrificed to the  
 protection of commerce and manufactures; not over-anx-  
 ious for the payment of debts either private or public,  
 and more concerned for the interests of debtors than of  
 creditors; looked with alarm upon the extensive powers  
 vested in the new national government, and sought, by

CHAPTER I. various petty cavils and particular restrictions, to ham-

per an authority the necessity of which they could not

1789. deny, at the same time that they dreaded even its legitimate exercise, not to insist on its possible abuse. "Various and numerous as they appear," said Madison, in a letter to Jefferson respecting the proposed amendments of the Constitution, "they certainly omit many of the true grounds of opposition. The articles relating to treaties, to paper money, and to contracts, make more enemies than all the errors of the system, positive and negative, put together." Jefferson, at first, had been a good deal of an anti-Federalist; but ultimately his objections seem to have been reduced to two, the re-elegibility of the executive, and the want of a bill of rights. This latter want was in part supplied by the amendments adopted; the other objection seems not to have been very permanent, since Jefferson not only urged Washington to stand as a candidate for the second time, but even consented to a second term of office in his own person, though to his case but few of the arguments urged upon Washington would apply.

Madison's proposal to take up the subject of amending the Constitution encountered considerable resistance in the House. Some members expressed themselves decidedly opposed to all amendments till experience could be had of the working of the Constitution. Others were disinclined to go into the subject till the government was first completely organized. Madison urged, in reply, the necessity of some speedy action to meet the expectation and to quiet the impatience of the numerous friends of amendments out of doors. He wished by no means to go so far as to open a door for reconsidering the general frame and structure of the government; but he thought it desirable, both from motives of policy and because it

would be an actual improvement, to incorporate so many of the proposed provisions for the protection of personal rights as might secure the concurrence of two thirds of both houses, and of the Legislatures of three fourths of the states. He introduced a series of resolutions embodying certain amendments which he thought of that character ; and, after some discussion, it was agreed to refer them to a committee of the whole. Previously, however, to any further discussion, both Madison's resolutions, and the amendments proposed by the various state Conventions, were referred to a special committee of one from each state. The report of that committee coming up for consideration, the first question that arose was, In what form should the amendments be made? Should they be incorporated into the text of the Constitution, or should they be appended to it, as a series of distinct provisions? Sherman suggested the latter method, the more feasible in the present case, inasmuch as the articles proposed by the committee were mostly in the nature of a mere bill of rights, by no means inconsistent with the Constitution as it stood—in fact, for the most part, implied by it. This suggestion, though voted down at first, was ultimately adopted. The report of the committee was debated from time to time, first in Committee of the Whole and afterward in the House, occasionally with a good deal of warmth. It was denounced by Burke as not containing “ those solid and substantial amendments which the people expected ;” as, in fact, “ little better than whipped syllabub, frothy and full of wind, formed only to please the palate ; or like a tub thrown out to the whale, to secure the freight of the ship and its peaceful voyage.” He noticed that on this committee of eleven there were no less than five who had been members of the Federal Convention. Gerry, who

CHAPTER I took a very active part, complained of a disposition to smother debate. The committee of eleven had been got up lest "a free discussion should lay bare the muscles and sinews of the Constitution." The only debate of much interest arose on a motion by Tucker to add to the proposed amendment securing to the people the right of peaceably assembling together, the right also "to instruct their representatives." This proposal was supported by Jackson and others, with the understanding, however, that it would not imply, on the part of the representative, any obligation to obey. Gerry, who was very urgent for the amendment, seemed to look at the matter in the same light; but this idea was combated by Page, Sumter, and Burke, who maintained that the representative would be bound to obey, as Gerry admitted he ought to be. Page thought "this amendment absolutely necessary, and strictly compatible with the spirit and nature of the government. All power vests in the people of the United States. It is, therefore, a government of the people, a democracy. For convenience, and for convenience only, the people had agreed that their representatives shall exercise a part of their authority. To pretend to refuse them the power of instructing their agents appeared to him to deny them a right." The proposed amendment was warmly opposed by Hartley, Clymer, Sherman, Wadsworth, Smith of South Carolina, and Madison. If the right to instruct implied no obligation to obey, it was amply secured already; if it did imply such obligation, it was highly pernicious, and ought not to be given. "Suppose," said Madison, "a representative is instructed to violate the Constitution: is he at liberty to obey such instructions? Suppose he is instructed to support certain measures which, from circumstances known to him, but not to his constituents, he is

convinced will endanger the public good, is he obliged to sacrifice his own judgment to theirs? Suppose he refuses, will his vote be the less valid, or his constituents less bound to yield that obedience which is due to the laws of the Union? If his vote must inevitably have the same effect, what sort of a constitutional right is this to instruct a representative who has a right to disregard the order if he pleases? The honorable gentleman from Massachusetts (Gerry) asks if the sovereignty is not with the people at large? But would he infer that the people, in detached bodies, can contravene a law established by the whole people? My idea of the sovereignty of the people is this: the people can change the Constitution if they please; but, while it exists, they must conform to its provisions. I do not believe that the inhabitants of any district can speak the voice of the people; so far from it, their ideas may contravene the sense of the whole people, and hence the doctrine of the binding force of instructions is of a doubtful, if not a dangerous character." It seems difficult to answer these arguments, yet they departed very far from the popular opinion of Madison's own state, and from what came to be the recognized political creed of the party with which Madison ultimately acted. The restricted right of suffrage, and very limited constituencies in many parts of Virginia, and the ample leisure of the planters for the discussion of political affairs, to which subject many of them devoted their principal attention, naturally made the right of instruction a very popular doctrine in that state, and in others in which a similar social condition prevailed.

Seventeen amendments were finally agreed to by two thirds of the House. The Senate, by compression and modification, and leaving out two articles altogether, reduced the number to twelve. Of these twelve, the first



CHAPTER two related to the number and pay of the House of Representatives; the other ten were pronounced by Liver  
1789. more to be "of no more value than a pinch of snuff, since they went to secure rights never in danger." Yet it was only these ten, being in the nature of a bill of rights, which, in the course of the next two years, received the sanction of a sufficient number of the state Legislatures to make them a part of the Constitution.

The importance of immediate legislation on the subject of the public lands was strongly urged by Scott; but nothing more was done at present than to pass an act for the government of the Territory northwest of the Ohio, by which the famous ordinance of 1787 was recognized and confirmed, but with such alterations as to make it conformable with the powers vested by the new Constitution in the president and Senate.

The important subject of the national debt was deferred till the next session, the Secretary of the Treasury being directed to prepare a report or plan for its liquidation. For the present, Congress contented itself with providing for the payment of its own members, and passing an appropriation act fixing the salaries of the officers it had created.

The salary of the President was established at \$25,000, exclusive of the use of a furnished house, provided at the public expense. It was stated in the debate that under the old system the household expenses of the presidents of Congress, paid by the public, had varied from \$8000 to \$13,000 annually. The salary of the Vice-president, though not without some opposition, was fixed at \$5000, an amount by no means corresponding to Adams's expectations, nor adequate to the scale of expenses which he had adopted. Washington caused the expenses of his household to be graduated in accordance with the

salary allowed, so as to carry out the proposition of his inaugural speech, to receive only the payment of his ex-  
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 1789.

The Secretaries of State and the Treasury were allowed \$3500 each; the Secretary of War, \$3000; the Controller and the Treasurer, \$2000 each; the Assistant Secretary of the Treasury, the Auditor, the Register, and the Post-master General, \$1500 each; head Clerks, \$600 to \$800; inferior Clerks, \$500; the Governor of the Northwestern Territory, \$2000.

The Chief Justice was allowed \$4000, the other justices of the Supreme Court, \$3500; the Attorney General, \$1500. The salaries of the District Judges varied from \$1800 to \$800. The District Attorneys, Marshals, and Clerks, as well as the officers of the Customs, were for the most part paid by fees, producing salaries in some districts out of all proportion to the importance of the office or the general scale of compensation, an anomaly not yet entirely done away with. The Deputy Post-masters were paid by a certain per centage on the amount of their receipts.

The pay of senators and representatives was fixed at six dollars for every day's attendance, and the same for every twenty miles "of the estimated distance by the most usual road" from the member's place of residence to the seat of Congress. The Speaker of the House of Representatives was to be allowed double attendance. The Clerk of the House and the Secretary of the Senate were to have as salary \$1500 each, besides clerk hire, and an additional allowance of two dollars per day during the session. A proposition to allow the senators, out of respect to their superior dignity, a higher rate of pay than the representatives, was voted down in the House; but the Senate strenuously insisted upon it, and finally, by way

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of compromise, and to prevent the loss of the bill, a provision was assented to by the House, that after the 4th 1789. of March, 1795, the daily allowance to senators should be seven dollars; but this discrimination never actually went into effect. All these salaries, except those of president and vice-president, have since been increased, some few of them more than doubled. Even now, however, few reach, and none exceed, \$8000 yearly, while the general rate of increase hardly corresponds with the increase in the expenses of living.

The New England members were strong advocates for low salaries. Ames thought that, taking the salaries paid by the states as a guide, \$1500 would be enough for judges of the Supreme Court, and would, so far, at least, as the New England states were concerned, command the best abilities. Sedgwick labored very hard to fix the pay of the members at five dollars a day, which he thought amply sufficient. The Southern representatives, accustomed to a less simple style of living, and an economy less strict, favored salaries on a more liberal scale. Page was alarmed at "this rage for reducing salaries. It was supposed by many to be Republican; but he entertained a different opinion. No man ought to be called into the service of his country and receive less than will defray the expenses he incurs in performing his duty. The effect of these low salaries would be to fill the public offices with inferior men, or to throw the management of public affairs exclusively into the hands of aspiring nabobs, who would lay the foundations of aristocracy, and reduce their equals to the capacity of menial servants or slaves."

As chairman of a committee to prepare an estimate of the net produce of the impost, and of the supplies necessary for the present year, Gerry reported that, in-

cluding the unpaid interest on the foreign and domestic debt, and the over-due installments of the foreign debt, CHAPTER  
I  
the amount needed for the service of the current year 1789. was \$15,442,000, while the net produce of the impost and tonnage duties for the four months and a half during which they would be collected was estimated at \$607,000, hardly equal to the current expenses, without any regard to the public debt. The Secretary of the Treasury presented an estimate of current expenses, amounting to \$723,000, including about \$200,000 of arrearages due from the late government. The bill, as passed, appropriated \$216,000 for the expenses of the civil list under the late and present governments; \$137,000 for the War Department; \$96,000 for invalid pensions; and \$190,000 for unpaid warrants of the late Board of Treasury: in all, \$639,000. A previous act had appropriated \$20,000 for the expenses of commissioners to negotiate with the Indians. The interest on the Dutch debt for this and the following year had been already provided for by the Continental Congress out of the proceeds of the last Dutch loan. This was the only part of the public debt on which the interest had continued to be regularly paid.

Of all the questions discussed at this session, none produced so much excitement as one started toward the close of it, respecting the permanent seat of the federal government. This question, first raised some nine years before, in consequence of the unfortunate mutiny which had occasioned the removal of the Continental Congress from Philadelphia, had been several times settled and unsettled in that body, had been evaded by the Federal Convention, and now remained for Congress to dispose of. To retain the seat of government at New York, where the Continental Congress had finally established itself,

CHAPTER I after vibrating for a year or two between Annapolis and  
Trenton, would best suit the Eastern States. Pennsyl-

1789. vania was very anxious to win the seat of government back to Philadelphia or its neighborhood. Maryland and Virginia were equally desirous to fix it on the Potomac, and in this they were supported by the more Southern states.

The New England members, doubtful of the result proposed a postponement to the next session; but the Pennsylvanians and Virginians, fearing lest the claim of New York might grow strong by delay, prevailed to have the subject entered on at once. Thereupon the more Northern members came to an understanding with the Pennsylvanians, and resolutions were agreed to for fixing the permanent seat of government on the Susquehanna, New York to remain the temporary capital until the necessary buildings could be erected. The Susquehanna had been preferred to the Delaware in hopes to conciliate the South; but the Southern members, especially the Virginians, were very much dissatisfied. The Potomac, they insisted, was far to be preferred to the Susquehanna, whether as respected communication with the ocean or with the region west of the Alleghanies. Even the moderate Madison declared that, had this day's proceedings been foreseen, Virginia would never have ratified the Constitution. In spite, however, of all opposition, a bill passed the House authorizing the president to appoint commissioners with authority to fix the particular site on the Susquehanna; also to purchase the necessary lands, and to erect the buildings, a loan being authorized for these purposes to the amount of one hundred thousand dollars. This bill came back from the Senate, just before the close of the session, so altered as to substitute for the site on the Susquehanna a district of ten miles

square adjoining Philadelphia, and including German-<sup>CHAPTER</sup>  
town. This change made the bill more agreeable to the <sup>I</sup>\_\_\_\_\_ 1789.  
Eastern members, and not less so to those of Pennsylv-  
vania ; but it tended to add to the dissatisfaction of the  
South. The House, however, agreed to it, with an ad-  
ditional provision, that the laws of Pennsylvania should  
continue in force in the ceded district till Congress should  
otherwise provide. This amendment made it necessary  
for the bill to go back to the Senate, where, for some rea-  
son that does not distinctly appear, but probably the in-  
creasing dissatisfaction of the Southern members, the  
whole subject was postponed till the next session. Sept. 24

A few days before the adjournment, a resolution was  
offered in the House to request the president to recom-  
mend a day of public thanksgiving and prayer, to be ob-  
served by the people of the United States in acknowl-  
edgment of the many signal favors of Almighty God,  
and especially his affording them the opportunity peacea-  
bly to establish a constitution of government for their  
safety and happiness. This motion, offered by Boudi-  
not and supported by Sherman, did not pass without op-  
position. Burke did not like this mimicking European  
customs, while Tucker intimated that it would be as  
well to wait for some experience of the effects of the  
Constitution before returning thanks for it. He thought  
the question of a thanksgiving ought to be left to the  
state authorities, as they would know best what reason  
the people had to be pleased with the new government.  
In spite, however, of these cavils, the motion passed by  
a decided majority.

IV.—I

## CHAPTER II.

APPOINTMENTS TO OFFICE. FOREIGN AND INDIAN RELATIONS. RHODE ISLAND AND NORTH CAROLINA. SECOND SESSION OF THE FIRST CONGRESS. THE FUNDING SYSTEM. POWER OF CONGRESS OVER THE SUBJECT OF SLAVERY. TERRITORY SOUTH OF THE OHIO. SEAT OF THE FEDERAL GOVERNMENT.

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**O**F all the duties devolving on the president, there was none of greater delicacy or importance than that of proposing appointments to the various offices created by Congress. The selection of suitable persons to fill the seats on the bench of the Supreme Court was a matter which occupied much of Washington's thoughts. The post of chief justice, which might be considered, next to that of president, the highest dignity in the government, and, in some respects, superior even to that, was given to John Jay, active and conspicuous for many years as a leading member of the Continental Congress, as chief justice of New York, as ambassador to Spain, as one of the commissioners for negotiating peace with England and treaties with the powers of Europe, and, finally, as Secretary of Foreign Affairs. For Jay's colleagues on the bench, due regard being had to their geographical distribution, Washington selected William Cushing, chief justice of Massachusetts; James Wilson, of Pennsylvania, looked upon by the public eye as a competitor with Jay for the place of chief justice; R. H. Harrison, chief justice of Maryland, formerly Washington's confidential secretary; John Blair, one of the judges of the

Virginia Court of Appeals; and John Rutledge, so distinguished from the commencement of the Revolution in the politics of South Carolina. Harrison declined his appointment, preferring the office of Chancellor of Maryland, to which he had been simultaneously appointed, and the seat thus vacant, after the accession of North Carolina, was given to James Iredell, a distinguished lawyer of that state. 1789.

The appointments of Hamilton and Knox as secretaries of the Treasury and of War have already been mentioned. The Department of State was offered to Jefferson, who had just returned home on leave of absence, after a six years' residence in France as minister to that court. Jefferson did not accept this appointment without some reluctance, being rather inclined to return to Paris; nor did he actually enter on his office till the following March, its duties, in the interval, being still discharged by Jay. The post of Attorney General was given to Edmund Randolph, late governor of Virginia, who had played, in relation to the Federal Constitution, a part almost as conspicuous as Madison, though not quite so consistent. After having been active in forming it, Randolph had refused to sign it, yet finally had supported its ratification with no little zeal. Samuel Osgood, late one of the commissioners of the Treasury, was appointed Postmaster General. As yet, that office did not confer a seat in the cabinet, which consisted of the three secretaries and the attorney general.

In filling up the inferior judicial offices, and other posts connected with the administration of justice and the collection of the revenue, the president found a high personal pleasure in providing, consistently with the interests of the public, for a number of his Revolutionary companions in arms, many of whom were in pecuniary circumstances



CHAPTER to make such appointments very desirable. The col-  
II lectorships of Boston, New London, and Baltimore were  
1789. given to Generals Lincoln, Huntington, and Williams ;  
that of New York to Colonel Lamb. General M'Intosh was appointed surveyor of the port of Savannah, and General Sullivan district judge of New Hampshire. Generals St. Clair and Parsons were continued in their respective offices, the one as governor, the other as a judge of the Northwest Territory. Many officers of inferior rank were otherwise provided for. But Washington's appointments were by no means confined to military men, the larger proportion being selected from civil life, into which, indeed, the officers of the late Revolutionary army had been long since absorbed.

The Senate at first adopted the practice, afterward dispensed with, of passing upon all nominations by ballot. Of those made during the first session of Congress, only one seems to have been rejected. The question was early raised as to the capacity of persons holding office under the United States, or elected members of Congress, to continue to sit in the state Legislatures. The decision that these two functions were incompatible was soon arrived at, and has ever since been adhered to. The law of Virginia, disqualifying United States officers to hold any state office, has been already mentioned. The first appointments having been made, the patronage of the president, since so extensive, remained, during the earlier years of the government, comparatively trifling.

The external relations of the United States, both those with the countries of Europe and those with the Indian tribes along the Western and Southern frontier, early called for attention on the part of the new government. Under the auspices of the Continental Congress, commercial treaties had been negotiated with France, Holland,

Sweden, and Prussia. The two former powers, as well as Spain, had ministers resident in the United States. CHAPTER  
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A treaty with the Emperor of Morocco afforded but a partial security against the cruisers of the African piratical states, who were accustomed, at that day, not only to capture the vessels of all nations not in alliance with them—in other words, not paying tribute—but also to reduce the crews to slavery. Algiers, Tunis, and Tripoli, as well as Morocco, each had to be separately conciliated. The cruisers of these states generally confined themselves to the Mediterranean, into which American vessels did not venture for fear of them. But sometimes they sallied forth into the Atlantic, and the interference of the new government had been already solicited on behalf of certain American citizens captured and held in slavery by the Algerines.

A consular convention with France, framed in accordance with a plan agreed to by the Continental Congress in 1782, had been signed by Franklin in 1784. But the inconveniences of this arrangement, when it came to be submitted to the Continental Congress for ratification, had plainly appeared. It gave to the consuls of the two nations complete jurisdiction over the merchants and mariners of the nation they represented—a jurisdiction which could hardly be exercised without serious danger of collision with the local authorities. Jefferson had therefore been instructed to ask for modifications, and especially for the insertion of a limitation of time. After a long negotiation, this limitation and some other modifications had been lately conceded, and the convention, having been signed anew, had been submitted to the Senate, during the late session, for their advice as to its ratification. Called upon by the Senate for a report upon the subject, Jay stated that, though

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still very objectionable in several of its provisions, yet, considering the circumstances under which it had been formed, the United States could not honorably decline to ratify it. Upon the strength of this report, the Senate advised its ratification, and to that advice the president conformed.

The Chevalier de Luzerne, who had left the United States about a year before, had been succeeded in the French embassy by the Count de Moustier, a person so objectionable on many accounts, moral as well as political, that the subject of his recall had already been pressed upon the French court. As there was no good understanding between Jay and Moustier, the French minister had attempted to open a diplomatic intercourse directly with the president; but to this Washington would not assent.

The general method of business adopted by Washington was to refer all letters and other applications to the head of some department for report, which report he approved, or suggested alterations in it, as the case might be. If grave doubts arose, the matter was referred to a cabinet consultation. If the cabinet did not agree and doubts were still left in Washington's mind, he was usually governed in his decision by a majority of voices.

To supply temporarily the place left vacant by the return of Jefferson, Washington appointed William Short as chargé des affaires at the French court. Short had originally gone to Paris as Jefferson's private secretary, and after the return of Humphries had been appointed secretary of legation. Carmichael, the resident minister at Madrid, was still continued there. No progress had yet been made in the negotiation with Spain as to the limits of Florida and the navigation of the Mississippi. Indeed, a scheme was believed to be on foot, under the

patronage of the Governor of Louisiana, for detaching CHAPTER II.  
from the Union the settlements west of the Alleghanies, \_\_\_\_\_  
with a view to form them into an independent state, or, 1789  
what would have been more agreeable to the Spanish,  
a province of Spain—an intrigue in which several influential persons in Kentucky were concerned, some of them being regular pensioners of Spain, of which full proof was brought to light many years afterward. The bait to be held out to the Western settlers was the free navigation of the Mississippi. It was, perhaps, as an aid to this design, that the Spanish government had recently granted to several American citizens a large tract of territory on the west bank of the Mississippi. Several officers of the late Revolutionary army were concerned in this enterprise, which led to the establishment of the settlement of New Madrid. But the projectors seem not to have realized the expected profits, and the intended colony was soon abandoned.

A good deal of jealousy had also been excited by the movements of Wilkinson, formerly an officer in the Revolutionary army, having served as Gates's adjutant general in the campaign against Burgoyne, and conspicuous from his unintentional agency in bringing Conway's intrigues to light. Wilkinson, who had lately established himself as a merchant in Kentucky, had descended the Mississippi with a cargo of tobacco, and, being a person of much address, had not only obtained liberty to sell it, but had entered into a contract with the Spanish governor for a regular supply, the government to be the purchasers of all he might send. He was, indeed, strongly suspected by many of being a party to the Spanish intrigue for the separation of Kentucky from the Union; but this was a charge which he always denied, and of which no distinct proof was ever adduced.

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Nor was it from Spanish intrigues alone that the peace of the West was threatened. That same Dr. Conolly 1789. who had attempted, in conjunction with Governor Dunmore, at the commencement of the Revolutionary war, to collect troops in the settlements about Pittsburg, in order to attack Virginia in the rear, and who was now a resident in Canada and a lieutenant colonel in the British service, had lately paid a visit to Kentucky, nominally to look after some forfeited lands of his, but, as was believed, with the hope of enlisting men there for an attack on New Orleans. A breach between the British and Spanish courts on the question of the right of the British to trade to Nootka Sound, which threatened a war between those nations, had encouraged Conolly to meditate an enterprise which the continuance of peace made it necessary to abandon, nor does he appear to have met with much encouragement in it from the people of Kentucky.

The relations with Great Britain were on a footing no better than those with Spain. The Navigation Act, that "guardian of the prosperity of Great Britain," as Lord Sheffield called it in his famous pamphlet on the American trade, was, as we have seen, strictly enforced. The exclusion of American vessels from the British West Indies, hitherto left to ministerial discretion, and regulated by orders in council, had been made perpetual by a late act of Parliament. The feeling exoited by that exolusion, and by a prevailing sentiment that, though forced to resign her political supremacy, Britain was still bent on retaining her late colonies in a sort of commercial subjection, had been fully displayed in the late debates in Congress on the subject of discriminating duties. On the ground of obstacles placed in the way of the collection of British ante-Revolutionary debts, the

Western posts, the surrender of which had been stipulated by the treaty of peace, were still withheld. The <sup>CHAPTER II.</sup> question as to the negroes carried away by the evacuating armies was also unsettled, and a new dispute began now to be added as to the identity of the River St. Croix, designated in the treaty of peace as forming in part the eastern boundary of the Union. 1789.

The return of Adams having left the United States without any representative at the British court, Washington authorized Gouverneur Morris, who was then in Europe, to ascertain whether, if another minister were appointed, the British government would reciprocate the compliment, and also what their views might be as to carrying into full execution the treaty of peace and entering into commercial arrangements. A promise to reciprocate the appointment of a minister was readily made, but on the other points Morris could obtain little satisfaction; nor was his pride altogether untouched at the indifference with which America and her claims seemed to be regarded in Great Britain.

Interesting as they might be, the relations of the United States with foreign nations were yet of less immediate and pressing importance than the state of affairs with the powerful Indian tribes along the Western and Southern frontier. Since the peace with Great Britain, treaties had been negotiated with most of the tribes which had taken part against the United States during the war; with the Six Nations at Fort Stanwix (Oct. 27, 1784), with the Wyandots, Delawares, Chippewas, and Ottawas at Fort McIntosh (Jan. 21, 1785), and with the Cherokees at Hopewell (Nov. 28, 1785). Acting apparently upon the principle that by the cession of Great Britain the United States had obtained an absolute title to all the territory within their nominal lim-

CHAPTER II. its, the American negotiators, in case of all these treaties, had undertaken to assign boundaries to the Indians, without giving them any consideration for the lands they were thus required to relinquish. This departure from the uniform usage of the late colonies, and the established practice of the British Indian agents, had naturally enough given great dissatisfaction to the Indians — a feeling which had been strongly expressed in a speech or memorial from a confederate council held at the Huron village, near the entrance of the Detroit River into Lake Erie (Nov., 1786), at which were represented not only the tribes above named, but several others also of the more distant West. In consequence of their representations, two new treaties had recently been held at Fort Harmar, under the authority of the Continental Congress, one with the Six Nations, the other with the Wyandots, Delawares, Ottawas, Chippewas, Potawatomies, and Sacs, by which the former treaties had been confirmed with some new provisions; allowances, payable in goods, having also been made, to the Six Nations of \$3000, to the other tribes of \$6000, in consideration of their respective cessions.

Jan. 9.

But to these new treaties the tribes on the Wabash had not been parties; and they still kept up, by occasional expeditions, the hostilities so long carried on against the settlers in Kentucky. The parties of Kentuckians who crossed the Ohio to retaliate were apt to attack, without much discrimination, any Indians whom they might happen to meet; and some unfortunate instances had recently occurred in which Indian parties belonging to tribes at peace with the United States had been thus recklessly assailed; indeed, the danger was great that the whole body of the Northwestern Indians might thus be driven again to lift the hatchet.

The number of warriors on the Wabash was estimated by the War Department at from fifteen hundred to two thousand; those in the whole region between the Ohio and the Lakes at five thousand; giving, according to the usual estimate of one warrior to four persons, a total Indian population in the territory northwest of the Ohio of twenty thousand. But the true number was considerably larger, perhaps nearly twice as many. This estimate did not include the Six Nations, with whom two particular treaties had recently been negotiated, one by Oliver Phelps as purchaser of the pre-emption right of Massachusetts, under the recent arrangement between that state and New York as to their mutual claims to lands west of the Delaware; the other by the State of New York itself, with the Onondagas and Oneidas. By these two treaties, in consideration of certain stipulated payments, large cessions had been made in the fertile district of Western New York, the Indians, however, still retaining extensive reservations. The tide of immigration, and its forerunner, the tide of speculation, were beginning to set strongly upon these lands, and the Indians were in danger of being stripped even of their reservations under color of leases which certain land speculators sought to obtain of them.

The Oneidas had given evidence of some advance in civilization by adopting a written form of government, founded in part on their ancient usages, but drawing many ideas from their white neighbors, among others, a partial distribution of the lands of the tribe among individuals, and the establishment of a school for instruction in English. The Stockbridge Indians, and some other fragments of the aboriginal tribes of New England, had been established on the Oneida reservation. The Cayugas and Oneidas had steadfastly adhered to the interests

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1789



CHAPTER II. of New York throughout the whole Revolutionary war, in consequence of which they had been at one period 1789. driven from their homes by the British party among the

• Six Nations, and exposed thereby to great sufferings. The Mohawks, under the influence of the Johnsons, had emigrated to Canada early in the war ; and, as they had always adhered to the British, their lands, including the whole region north of the Mohawk River, were regarded by the State of New York as conquered territory, though a portion of this region continued to be claimed by the Cagnawagas, or French Mohawks, who dwelt now in the neighborhood of St. Regis.

The Indians south of the Ohio, still more numerous, were hardly less formidable than those north of that river. The warriors of the four great southern confederacies—the Cherokees, the Creeks, the Chickasaws, and the Choctaws—were estimated to amount to fourteen thousand, giving a total population of about sixty thousand. The Chickasaws, on the waters of the Upper Yazoo, and claiming the district west of the Tennessee River, and the Choctaws, dwelling principally on the head waters of the Pearl and Pascagoula, and extending thence to the Mississippi, being too far removed from the frontiers to be exposed to collision with the back settlers, had always been on good terms with the Anglo-Americans, and the friendship established with those tribes by the treaties of Hopewell (1786, Jan. 3, June 12) still remained unbroken. The case was very different with the Cherokees and the Creeks, brought into immediate and irritating collision with the frontier settlers of the Carolinas and Georgia. The Cherokees claimed the Cumberland River as their northern boundary, their territory embracing the larger portion of the present state of Tennessee, with parts also of the Carolinas and Georgia

In framing the treaty of Hopewell, the American commissioners had gone as far, in curtailing the Indian limits, as any sense of justice would permit, and the Cherokees had found themselves obliged to relinquish a considerable tract south of Nashville as far as Duck River, besides other districts on their eastern border. The Cherokees were greatly dissatisfied at these curtailments, while the backwoodsmen complained loudly at what they considered the unreasonable concessions made to the Indians. The agents of North Carolina and Georgia in attendance at Hopewell had protested against the treaty; nor had any regard whatever been paid to its provisions by the authorities of the insurrectionary state of Franklin or Frankland, embracing the settlements in the immediate neighborhood of the Cherokee country. In consequence of the many outrages committed by these wild backwoodsmen, a war had ensued (1787), in which Sevier, the fugitive governor of the expiring state of Frankland, had taken an active part. Worst of in this contest, their fields ravaged, their villages burned, some of their warriors entrapped by false pretenses and slain in cold blood, not even their women and children spared, the eastern clans of the Cherokees had been driven to seek shelter with the Creeks. The Continental Superintendent of Indian Affairs for the Southern Department had remonstrated against these outrages, as well with the governor of North Carolina as with the inhabitants on the frontier, and the Continental Congress had issued a proclamation (Sept. 1, 1788), one of the last, as it was among the most honorable official acts of that body, declaring their intention to protect the Cherokees in their rights; enjoining the intruders beyond the limits fixed by the treaty of Hopewell to retire; and directing the Secretary of War to hold in readiness a part of the Con-

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\_\_\_\_\_ tinental regiment distributed at the posts along the Ohio, to march, should there be need, to the assistance of the

1789. Cherokees. At the same time, a new negotiation was directed with the Southern Indians, the Creeks as well as the Cherokees, the Superintendent of Indian Affairs to be joined for that purpose by commissioners from the states of North Carolina and Georgia. This vigorous interference of the expiring Continental Congress had the effect to put a stop to a project then on foot among the militia officers in the back counties of North Carolina, to raise fifteen hundred men for a new expedition against the Cherokees; the state authorities had exerted themselves to restore peace; and shortly after the

June 16. meeting of the new Congress, a truce had been arranged, by which it was stipulated that a treaty should be held as soon as possible, all hostilities in the mean while to cease. Taking advantage of this truce, the Cherokees had hastened to send a delegation to New York, under the guidance of a friendly trader, to appeal to "their elder brother General Washington and the great council of the United States," to secure them in their rights under the treaty of Hopewell. But, as North Carolina had not yet acceded to the new Constitution, the Senate declined to recommend any immediate movement beyond a message to the Cherokees, promising full justice as soon as the obstacle growing out of the present position of North Carolina should be removed.

An Indian war, originating in similar causes, had also sprung up in Georgia; but the Creeks had been more fortunate than their northern neighbors. The Creek warriors, estimated at between four and five thousand, were mostly well armed with good rifles, and amply furnished with ammunition. In this respect, through the aid of the Spaniards in Florida, they had greatly the

advantage of the Cherokees, whose fire-arms were poor and few, and their supply of powder limited and precarious. The upper Creeks dwelt principally on the upper waters of the Alabama; the lower Creeks on the Appalachicola and its two branches, the Chattahoochee and the Flint. The Seminoles, a branch of the lower Creeks, extended into Florida. The towns, or sub-tribes of the Creeks, including both divisions of the nation, were about eighty in number, but very different in population and importance, a few, called "mother towns," having the principal direction of affairs. The Creeks had the great advantage of an able and accomplished head chief in Alexander M'Gillivray, the son of a Creek woman of the family of the principal chiefs, by a Scotchman who, as a means of increasing his influence, had intermarried with her, according to a common practice among the Indian traders. Having been put to school at Charleston, where he learned Latin and acquired a tolerable education, the young M'Gillivray, at the age of seventeen, had been placed by his father in a counting-house. But, though not without capacity for mercantile affairs, he still devoted most of his time to reading and study. His father, who had large possessions in Georgia, adhering in the Revolution to the British side, had been banished, and his property confiscated; circumstances not likely to bias the son in favor of the Georgians. Taking refuge among the Creeks, the young M'Gillivray, as well by reason of his superior talents and knowledge as by his claims of birth, transmitted, according to the Indian custom, in the line of the mother, had risen to be the head chief, or, in the phraseology of the Creeks, "the beloved man" of the nation.

Shortly after the peace with Great Britain, the Georgians had, as they alleged, concluded a treaty at Augusta

CHAPTER (Nov., 1783) with that great body of the Creek nation  
II. which had adhered to the British during the late strug-

1789. gle. This treaty, confirmed by two others—the one of Galphinton (Nov., 1785), the other of Shoulderbone (Nov., 1786)—had ceded to Georgia a considerable tract of the Creek lands west and south of the Oconee. But the Creeks denied the validity of these treaties, which, indeed, under the Articles of Confederation, the State of Georgia had no right to make, the management of Indian affairs being expressly reserved to the Continental Congress. According to the Creeks, the two pretended treaties of Augusta and Galphinton had been entered into, without any authority from the nation, by two or three border chiefs, who had maintained during the late war a neutrality and friendly intercourse with the Georgians. So far as related to the treaty of Galphinton, this account found support in the conduct of the United States commissioners, who had negotiated at Hopewell three cotemporaneous treaties with the Cherokees, Choctaws, and Chickasaws, but who had declined a journey to Galphinton to negotiate with the Creeks, for the express reason that only two chiefs were present there; a circumstance, however, which did not prevent the agent of Georgia from proceeding with the negotiation. As to the treaty of Shoulderbone, that had been imposed, so M<sup>c</sup>Gillivray alleged, by threats of personal violence, upon a council attended by a few chiefs only, the six hostages pretended by the Georgians to have been given for its fulfillment being in fact six prisoners forcibly seized.

The Georgians having hastened to distribute as military bounties the lands west and south of the Oconee alleged to be thus ceded, and new settlers having moved on to occupy them, the Creeks had resented what they deemed an intrusion; a war had followed (1787), and

notwithstanding the efforts of the late Continental Congress to bring about an arrangement, it was still carried on, the Creeks insisting on the restoration of their land. 1789.

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In this war the Georgians had suffered severely, and the alarm had spread even to the town of Savannah. It was among the victorious Creeks that the defeated Cherokees had found refuge. The Georgians had called on the neighboring states for assistance, but without much effect, and it was the hope of aid from the new federal government which had prompted so speedy a ratification by Georgia of the Federal Constitution. These hostilities had not been confined to Georgia alone, but had extended to the distant and isolated settlements about Nashville, which had suffered not a little from occasional inroads of the Creeks.

For more than a century the Creeks had been allies of the Anglo-Americans and enemies of the Spaniards. These same relations they were still disposed to maintain; but, finding the Georgians hostile, they had entered into a close alliance with the Spanish government, lately re-established in Florida. A mercantile firm, in which M<sup>c</sup>Gillivray was a partner, supplied them with goods, introduced through that province, on which the Spanish government allowed a partial remission of duties. The Creeks consumed annually about \$50,000 worth of European goods, paid for in furs and skins. M<sup>c</sup>Gillivray was much courted by the Spanish governor of Florida, and was said to have a commission as colonel in the military service of Spain. Having it thus in their power to obtain ready supplies of arms and ammunition, the Creeks were much more formidable enemies than the interior and ill-armed Cherokees.

Both these confederacies had made some steps in advance of their original savage state. Though still, for

CHAPTER II. the most part, hunters, they cultivated considerable crops  
of corn and sweet potatoes; they had cattle and horses,  
1789. and a few slaves, refugees from their white neighbors,  
or captured in war. Lately, in some instances, they  
had introduced the use of the plow.

An appropriation being made by the new Congress to meet the expense of that renewed negotiation with the Southern Indians which the Continental Congress had ordered, Washington had appointed as commissioners for that purpose General Lincoln, Colonel Humphreys, and Cyrus Griffin, late president of Congress, and afterward district judge of Virginia, all purposely selected from states having no relations with the southern tribes. These commissioners were instructed to investigate the history of the three treaties between Georgia and the Creeks, and if they should appear to have been fairly made, to endeavor to induce the Indians to conform to them, being authorized to hold out, in the last resort, the threat of war on the part of the United States. Should it appear that the treaties were of such a character that the United States could not sustain them consistently with justice, the commissioners were to endeavor to obtain by a new treaty the tract west of the Oconee, which, being already occupied by settlers, could not be relinquished without great inconvenience. Arrangements had already been made by the Indian agent for holding a treaty with the Creeks at Rock Landing, on the Oconee, and there, at the time  
Sept 20. appointed, the commissioners met M'Gillivray and the other principal chiefs. They were received with great marks of friendship, the Indians being disposed to grant to the agents of the United States the same tokens of respect hitherto yielded to the British Indian agents, and to substitute the President of the United States as their

“Great Father” in place of the British king. But it soon became evident that they were firmly resolved not to consent to the extensive claims of territory set up by the Georgians. Finding that the commissioners did not propose to restore their lands, they broke off the treaty abruptly, without proposing any counter-project, promising, however, to remain peaceable till further negotiations could be had. The commissioners, in their report to the Secretary of War, expressed an opinion favorable to the validity of the three treaties; but they seem to have had no other evidence of it except the assurances of Walton, the governor of Georgia.

Along the whole line of the western frontier, Indian affairs, it thus appears, were in a very unsettled state.

Already, before the adjournment of Congress, evidences had appeared of some uneasiness on the part both of North Carolina and Rhode Island at their present isolated position. Provision had been made in North Carolina for calling a second convention, to take the Federal Constitution again into consideration; an address to Congress from the General Assembly of Rhode Island, drawn up with no little art and skill, plainly evinced the alarm felt by the ruling party of that little state. After appealing to the recollection of hazards and hardships in the common cause, this address suggested, as an apology for their doubts and hesitation in acceding to the new system, the strong attachment of the people of that state from its first settlement, to “a democratical form of government.” “They have viewed in the new Constitution an approach, though perhaps but a small one, toward that form of government with which we have lately dissolved our connection, at so much hazard and expense of life and treasure. They have seen with pleasure the administration thereof, from the most important trust



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downward, committed to those who have highly merited, and in whom the people of the United States place unbounded confidence. Yet, even in this circumstance, in itself so fortunate, they have apprehended danger by way of precedent. Can it be thought strange, then, that, with these impressions, they should wait to see the proposed system organized and in operation; to see what further checks and securities would be established by way of amendments, before they could adopt it as a form of government for themselves and their posterity?"

"We are sensible of the extremes to which democratic government is sometimes liable, something of which we have lately experienced, but we esteem them temporary and partial evils compared with the loss of liberty and the rights of a free people. Neither do we apprehend they will be marked with severity by our sister states, when it is considered that, during the late troubles, the whole of the United States, notwithstanding their joint wisdom and efforts, fell into the like misfortune; that from our extraordinary exertions, this state was left in a situation nearly as embarrassing as that during the late war; that in the measures which were adopted, government unfortunately had not that aid and support from the moneyed interest which our sister states of New York and the Carolinas experienced under similar circumstances; and especially when it is considered that, upon some abatement of that fermentation in the minds of the people which is so common to the collision of sentiments and of parties, a disposition appears to provide a remedy for the difficulties we have labored under on that account."

The address concluded with hoping that the people of Rhode Island would not "be altogether considered as foreigners, having no particular affinity or connection

with the United States," but that trade, upon which their prosperity so much depended, would be preserved as free and open as circumstances would admit; promising, in return, that such commercial regulations should be adopted as, instead of obstructing, should co-operate with the laws of the United States for collecting a revenue, and that the utmost efforts should be made on the part of Rhode Island to be ready, from time to time, to answer her proportion of such parts of the interest and principal of the foreign and domestic debt as the United States might judge expedient to pay and discharge. In conformity with this promise, a law had been passed, imposing on goods imported into Rhode Island the same duties levied by the federal tariff, the amount thus collected to remain a separate fund devoted to Continental purposes.

The good dispositions thus evinced by North Carolina and Rhode Island had been reciprocated by Congress in the passage of an act, just before the adjournment, exempting the vessels of those states, for a limited period, from the operation of the foreign tonnage duty.

Shortly after the adjournment of Congress, the president set out on a tour to the Eastern States. Avoiding Rhode Island, he proceeded through Connecticut to Massachusetts, and thence to New Hampshire, returning again by a somewhat different route. Every where he was received with the greatest enthusiasm. It is, indeed, a trait of the people of New England, notwithstanding their exceedingly republican spirit, when they feel called upon to pay personal honors, to carry the matter somewhat to excess. "We have gone through all the popish grades of worship," wrote Trumbull, the author of *M'Fingal*, to his friend Oliver Wolcott, auditor, and soon afterward controller, of the federal treasury,

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CHAPTER II. "and the president returns all fragrant with the odor of incense." This visit answered a good purpose in stilling, 1789. in a great measure, the loud outcry raised among the economical inhabitants of New England against what they esteemed the high rate of pay allowed to the members of Congress, and the high salaries of the federal officers generally.

Nov. 13. On the very day of the president's return to New York, the new Convention of North Carolina voted to ratify the Federal Constitution. Eight amendments were proposed, of which the principal were a prohibition to Congress to interfere, either by themselves or through the judiciary, with the paper money of any state already emitted, or with the liquidation of state debts already incurred.

The North Carolina Legislature, in session at the same time, passed an act ceding to the United States the territory now constituting the State of Tennessee, subject, however, to the North Carolina land warrants already issued, quite enough to cover the greater part of the territory. They added also the important restriction "that no regulation made or to be made by Congress shall tend to the emancipation of slaves."

The same Legislature appropriated all arrearages due to the state treasury prior to 1783, toward the endowment of a state university, the origin of the college at Chapel Hill. The remnants of the confiscated property hitherto undisposed of, and such lands as might escheat to the state, were afterward added to this endowment; but the whole constituted only a very moderate fund.

The former constitutional convention, besides acting on the Federal Constitution, had been authorized to fix upon a place as a capital for the state, and it was in accordance with their decision that the city of Raleigh was

laid out for that purpose, thus reviving a name connect- CHAPTER  
ed with the earliest history of English settlement on the II.  
American coast. 1789.

Conformably to a special act of the late session of Congress, the reassembling of that body did not take place till the commencement of the new year. The president 1790.  
met the two houses in the Senate Chamber, and address- Jan. 8.  
ing them in an oral speech, written copies of which were afterward furnished to the Senate and the House. He recommended adequate provision for the common defense, in reference especially to Indian hostilities; an appropriation for the support of ministers and agents abroad, a matter hitherto overlooked; the establishment of a federal rule of naturalization; encouragement to agriculture, manufactures, commerce, and literature; and, what proved to be the great measure of the session, adequate provision for the interest on the public debt. Both houses having waited upon the president with formal answers to his speech, the various recommendations contained in it were referred to as many different committees—a practice ever since adhered to.

As the federal government had not actually gone into operation on the fourth of March, the day originally appointed, but several weeks later, and as many members of both houses had been elected at a still subsequent period, two questions arose: When should the federal year be considered to begin? and what was the term for which members had been chosen, two years from the date of their election, or only to the end of the current Congress? It was finally agreed, on the report of a joint committee, that the present Congress should expire with the 3d of March, 1791, and that persons chosen to fill vacancies should be considered as chosen only for the remainder of the Congress.

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1790 Another important question was, What should be considered the state of the business left unfinished at the close of the late session? The consideration of this subject by a joint committee resulted in a joint rule, that every thing might be taken up where it had been left off at the adjournment, except bills which, after having passed one house, had stopped in the other. These were to be considered as lost, and were not to be revived except by taking up the subject anew.

A third question, having an important bearing on the practical transaction of business, grew out of an intimation from the Secretary of the Treasury that he was ready to make that report on the national debt and the support of the public credit required of him by a resolution of the last session. Should that report be made orally, or in writing? It was insisted by those who favored an oral report, that, to the full comprehension of so complicated a subject, verbal explanations would be absolutely necessary. Those of the opposite opinion insisted with equal eagerness on the superiority of written explanations. This latter view prevailed, and the precedent thus established has ever since been followed, according to which official intercourse between the two houses of Congress and the heads of departments takes place only in writing.

Hamilton's report estimated the foreign debt, due to the court of France and to private lenders in Holland, with a small sum to Spain, at \$11,710,378. This included the arrears of interest, to the amount of upward of a million and a half, which had accumulated on the French and Spanish loans since 1786, and also several installments of the French loan, already over-due.

The domestic debt, registered and unregistered, including interest to the end of the current year, and an

allowance of two millions for unliquidated claims, principally the outstanding Continental money, was reckoned at \$42,414,085, of which nearly a third part was arrears of interest. Notwithstanding the attempts of the Continental Congress to keep down the interest by calling on the states for an annual contribution in indents or interest certificates, those calls had been but very imperfectly met. Out of a total interest accumulating on the domestic debt since its first contraction to the amount of eighteen millions of dollars, less than five millions had been paid in any shape, thus leaving an undischarged balance of more than thirteen millions.

With respect to the debt due abroad, there was no difference of opinion; all agreed that it must be met in the precise terms of the contract. With respect to the domestic debt, very different notions prevailed. A large proportion of the certificates of that debt had passed out of the hands of the original holders, and to a considerable extent had accumulated in the possession of a comparatively few, who had purchased them on speculation at very low rates, or had received them at like rates in payment of debts or in lieu of money. The idea had, therefore, been suggested, and had found many advocates, of applying to these certificates the principle of a scale of depreciation, as had been done in the case of the paper money, paying them, that is, at the rates at which they had been purchased by the holders; and this idea was especially urged as to the arrears of interest, accumulated to an amount equal to nearly half the principal.

Against both these projects, that of "scaling down the principal," as it was called, and of a discrimination as to the interest, the report of the Secretary of the Treasury took decided ground. Without overlooking the moral obligation to pay, the satisfaction of the public creditors,

CHAPTER II. to the full extent of their claims, was treated mainly as  
1790. a matter of policy. Public credit was essential to the new federal government. There was no other way of meeting those sudden emergencies to which, in the vicissitudes of affairs, all nations are alike exposed, and for which, according to the modern expensive method of conducting military operations, the resources of immediate taxation must always prove insufficient. But public credit could only be established by the faithful payment of public debts, according to the terms of the contract. The original contract was to pay so much money to the holders of the certificates, or to their assignees. The assignees stood, therefore, precisely in the place of the original holders, and, so far as payment was concerned, must be regarded as original holders. These assignees had exhibited their faith in the nation, had preserved the public credit from total extinction, and had relieved the pressing wants of the holders by giving ready money in exchange for a doubtful and uncertain claim. If the sums thus paid had been far less in amount than the claims purchased, that had been a natural and inevitable consequence of the financial position of the United States, making it a matter of great uncertainty when the certificates would be paid, or, indeed, if they would ever be paid at all. The equality of the claim of the assignee with that of the original holder was a most important element in the value of public securities, and any attack upon that equality would be a departure from that policy of establishing the public credit, which formed the great political motive for paying the debt at all. If any compensation was to be made to the unfortunate persons who had sold at a loss, it ought not to come out of the pockets of the assignees, but should be made up by the government, through whose fault the loss had occurred.

The case of the over-due interest was put with equal force. That interest ought to have been paid at the time. It stood, therefore, on even stronger ground than the principal, which the creditor had no right to demand so long as the interest was paid ; whereas the accumulated unpaid interest was already due, and now demandable. If to make instant payment of the whole were impracticable, the creditor ought at least to receive a fair and substantial equivalent by having his over-due interest converted into a principal debt. CHAPTER  
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In addition to the sums due from the federal government, somewhat exceeding fifty-four millions of dollars, there were also large state debts, estimated by the secretary to amount, in the whole, over-due interest included, to about twenty-five millions of dollars. The assumption of these debts by the federal government was strongly recommended. They had been incurred in the common cause ; no more money would be required to pay them as federal than as state debts ; that money might be much more conveniently raised by the federal government than by the states ; and, what was a matter of much importance, all clashing and jealousy between state and federal debtors would thus be prevented.

If the state debts were assumed, the whole amount to be provided for would fall not much short of eighty millions of dollars, the annual interest exceeding four millions and a half. This was, perhaps, a greater sum than could be raised without the risk of dangerous discontents, such as would put the whole system at hazard ; and hence it became the interest of the public creditors to consent to any arrangement which, in yielding them a fair equivalent, tended also to reduce the amount to be annually paid. The domestic debt bore, at present, an annual interest of six per cent. ; but as it was re-



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1790. deemable at the pleasure of the government, whenever the credit of the United States became sufficiently established to enable them to borrow money at five per cent. or less, the public creditors might be obliged to accept that diminished rate of interest, or, if they declined, might be paid off by means of new loans contracted at that rate. The secretary assumed, as the basis of his calculations, the probability that, in five years, the United States might be able to borrow at five per cent., and in fifteen years at four per cent. To assure the public creditors a permanent rate of six per cent. for a certain fixed period might therefore constitute an equivalent for a reduction of the principal, or for a postponement of interest as to a part of it, thereby reducing the immediate burden. Thus reduced, the interest might be met, as the secretary thought, by certain additions to the duties on wines, spirits, tea, and coffee, with an excise tax on spirits distilled at home.

For the purpose of carrying out this arrangement, it was proposed to open new loans, subscriptions to be received in certificates of the old stock of the domestic debt, principal and interest to stand on the same footing. To meet the various views of creditors, different offers were suggested, all founded, however, on the above assumption as to the probable future ability of the United States to borrow at a reduced interest. Thus the public creditor might receive two thirds of his subscription in a six per cent. stock redeemable at the pleasure of the government, and the balance in land, at the rate of twenty cents the acre; or, instead of the land, stock to the amount of \$26 88 on every hundred, to begin to bear interest at six per cent. at the end of ten years, both stocks, in that case, to be irredeemable by any payment exceeding eight dollars annually on the hundred for prin-

cipal and interest. Another proposed alternative was to allow a four per cent. stock, redeemable only at the rate of five dollars annually for principal and interest, to the amount of the whole subscription, with a bonus of \$15 80 on every hundred, payable in land. A third proposal was payment of the subscriptions in a deferred annuity for life, or an immediate annuity on the survivorship of two lives, to be calculated on a rate of interest at four per cent.—these annuities, by their expiration, to discharge the principal—the only scheme, in fact, upon which public debts ought ever to be contracted.

Upon the economical as well as the political benefits to be expected from this funding of the public debt, with a regular provision for paying the interest, the secretary dwelt with a good deal of animation. The stock thus created might and would serve, to a great extent, in the place of money, and would thus furnish a capital to the holders almost equivalent to cash. Such a creation of capital would give a new impulse to industry, and, by increasing the means of purchase, would tend to raise the price of cultivated lands, which, in consequence of the immense amounts thrown upon the market to pay the debts of the owners, and the facility of obtaining new lands on the frontiers, had fallen, in most of the old settlements, to less than half the price which the same lands would have brought before the Revolution.

But while he regarded as certain the benefits of a judicious funding system, the doctrine that a national debt is a national blessing was esteemed, by the secretary, to be sound only within very narrow limits. He suggested, therefore, the appropriation of the surplus proceeds of the post-office as a sinking fund for the gradual extinction of the debt.

There was one other reason not dwelt upon in this

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1790 report, but which had great weight with Hamilton and many others, in favor of a liberal provision for the public creditors, including the assumption of the state debts.

It would be a politic means of strengthening the new government, by attaching to it, by the powerful ties of pecuniary interest, a large body of influential men, and of re-enforcing, in that way, national feeling as a counterbalance to the preponderating power of the states.

For several years prior to the organization of the new government, and, indeed, almost ever since their first issue, the certificates of the federal debt had changed hands at rates not generally exceeding fifteen cents on the dollar. The current value of the state debts had been somewhat various, but in most of the states had exceeded that of the federal debt. Some rise in the value of the federal certificates had taken place since the passage of the revenue bill. Upon the publication of the secretary's report, it went up to fifty cents on the dollar. Large speculations were immediately set on foot; and a great handle was afterward made of a swift-sailing pilot-boat, said to have been dispatched to Georgia and the Carolinas with orders to buy up, in anticipation of the news, all the certificates which could be had—an operation in which Smith of South Carolina was alleged to have been interested.

By the holders of the public securities and their friends, including the great body of the moneyed men into whose hands, in the necessary course of trade, the greater part of the certificates had passed, the secretary's proposal was hailed as a great act of public justice, gloriously realizing the fond hopes of those who had struggled to obtain, and were now struggling to support, the Federal Constitution. But there were others by whom the proposed funding of the public debt was regarded in a very different light. They saw in the present holders of the

certificates not those who had shed their blood and expended their substance in the public cause, but a body <sup>CHAPTER II.</sup> of shrewd and hard speculators, who had taken eager advantage of the sufferings and poverty of the original holders, and who were now to be suddenly enriched out of the pockets of the people. Envy at wealth to be so easy acquired; indignation at the advantage taken, or supposed to have been taken, of suffering patriotism; above all, a strong disinclination to pay taxes, completely closed the eyes of many to the political and economical reasons which Hamilton had so ably urged. The very circumstance that injustice had been done already, that the inability of the government had obliged many of the original creditors to part with their claims at a great discount, seemed to these persons to be a reason for subjecting the present creditors to a similar process; one piece of injustice, as usually happens, being thus made the excuse for another, in order that all might stand on the same level.

Why should not the principle adopted with respect to the Continental paper money be applied also to the present certificates? In that case a nominal debt to the amount of two hundred millions of dollars, and from which the government had actually realized some seventy millions, in consequence of a depreciation of the bills in the hands of the holders, similar to that which the existing certificates had undergone, had been reduced by a resolution of Congress to five millions of dollars, being at the rate of forty for one. Nobody proposed to rip up that work; indeed, it was part of the present scheme to provide at that rate of depreciation for some seventy-eight millions of the Continental paper yet outstanding, and constituting the bulk of the unliquidated debt.

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It would, indeed, have been a short answer to say that one repudiation could not justify another; but this answer would not have come with a very good grace from those who, at the same time that they talked about the inviolability of contracts, proposed to act upon and to carry out the repudiation of the old paper money. It was attempted to draw a distinction between the two cases on the ground that for a large part of the paper money the government had received an equivalent greatly below the nominal amount of the bills, the depreciation of the paper being exactly measured by the rise in prices, whereas the certificates had been given in all cases for liquidated specie values. But this distinction did not reach the case of the earlier issues of paper, which had been paid out and received at par; nor was there the slightest ground to pretend that the Continental Congress had not received a far greater consideration for the paper than the amount to which it was finally reduced. Another distinction, more to the purpose, seems to have been entirely overlooked, or to have been only obscurely hinted at; the circumstance, namely, that the bills of credit had a forced circulation, that every body was obliged to receive them as cash, and that the loss arising from the depreciation was thus distributed by authority of the government, and in the nature of a tax, among all those through whose hands they had passed, that is to say, among the whole community, in proportion to the extent of their moneyed transactions. The certificates having had no such forced circulation, the present holders could not be regarded in the light of persons who, in being paid at the current value of the bills, were subjected only to their share of a common loss, imposed upon all alike by the exigencies of the war and the law of the land. On the other hand, the refusal to pay them the face of their

claims would make them special sufferers, punished for CHAPTER  
 having trusted to the good faith of the government, and II.  
 unjustly deprived of the advantage to which the posses- 1790.  
 sion of capital in the midst of general poverty and dis-  
 tress had naturally entitled them, and which, if invested  
 in land or any other property, would, by the lowness of  
 prices occasioned by prevailing distress, and by the rise  
 of prices on the return of prosperity, have produced a  
 similar profit.

After the interval of a month, the subject of the pub-  
 lic debt was taken up in Committee of the Whole, on a Feb. 8  
 series of resolutions proposed by Fitzsimmons. The first  
 resolution, relating to provision for the foreign debt, passed  
 without debate. The second resolution, proposing to ap-  
 propriate permanent funds toward the interest and prin-  
 cipal of the domestic debt, after some discussion, was met  
 by Scott with a motion to postpone its further considera-  
 tion till the domestic debt was fully liquidated. This  
 motion, evidently intended to give the whole subject the  
 go-by, admitted of all sorts of objections to the plan pro-  
 posed, without the necessity of submitting any precise  
 counter-project. Scott himself boldly took a ground,  
 upon which alone, with any regard to the obligation of  
 contracts, the scaling system could be sustained, and  
 which, had his assumptions been grounded on fact, would  
 have removed one chief distinction between this case and  
 that of the paper money. The certificates had been paid  
 out at certain nominal rates borne upon their face, but  
 the actual cash value of a large part of them at the time  
 of their issue had not exceeded a sixth or eighth part of  
 their nominal value, from which circumstance Scott ar-  
 gued that they ought to be considered as having been  
 paid and received by a sort of compromise between the  
 United States and their creditors, and as an actual dis-

CHAPTER charge of the claims at that reduced rate. The actual,  
II. and not the nominal, value of the certificates when given  
1790. was, he thought, the substantial thing to be looked at,  
and to redeem them at that rate would be a substantial  
fulfillment of the contract. This view of the case ap-  
plied not merely to holders by assignment, but to the  
original creditors themselves, as to whom it was coolly  
hinted that, even though no provision should ever be  
made for their reimbursement, yet they might consider  
themselves amply indemnified by that independence and  
freedom which their advances had helped to secure.

To this it was answered that the certificates in ques-  
tion were precisely bonds or notes of hand, accepted by  
the creditors, not as cash, or in discharge of the debts at  
the current value of the certificates, but merely as fixing  
the amount due and making the claim transferable, and,  
in consequence, merchantable. This fact in the case  
was, indeed, so unquestionable as to drive most of those  
who argued against full payment into bewailing the fate  
of the creditors who had parted with their certificates for  
a trifle. Should full payment be made, those same un-  
fortunate creditors, to whom the certificates had origin-  
ally been given, might be obliged, it was said, to refund  
a greater sum in taxes than they have received in ex-  
change for their claims!

It seemed to be generally admitted in the course of  
the debate that the original holders of the certificates had  
in many cases been "unhandsomely dealt with," so one  
of the speakers expressed it. But on this topic, as is apt  
to be the case in such matters, there seems to have been  
considerable exaggeration. The original holders of the  
certificates might be arranged into three classes: officers  
and soldiers of the Revolutionary army, to whom had  
thus been made up arrears of pay and clothing, defi-

ciencies growing out of the depreciation of the paper money, and the commutation of the half-pay for life ; CHAPTER  
II  
farmers, who had been paid in certificates for provisions 1790. forcibly levied for the support of the army ; and capitalists, who had made loans in the old paper, for the specie value of which certificates had been given. Of all these holders, the only ones likely to have been the subjects of actual frauds were the common soldiers, who, no doubt, in many cases had parted with their certificates as lightly as they would have done had those certificates been money. But in the general transfer of the public debt from hand to hand, during the seven years since the close of the war, no ground appears for complaints as to misconduct on the part of the present holders. That the farmers should, for the most part, have parted with their certificates in payment of their debts or for the purchase of supplies was naturally to be expected ; nor was it to be supposed that any thing more would have been obtained for them than their current value in the market, which appears to have been quite as great as was warranted by the state and prospects of the federal finances.

The chief speakers in favor of funding the debt at its nominal value were Sedgwick, Ames, Gerry, Sherman, Boudinot, Hartley, Fitzsimmons, Stone of Maryland, Page, and Smith of South Carolina. The principal advocates of the other view were Scott, Livermore, Tucker, and Jackson. Some of the speakers urged that the United States being a party to the contract had no right to enter into any equitable view of the matter, or to undertake on such grounds to cut down the nominal amounts. But the case of the paper money was pressed by way of answer to this view, and finally Sedgwick admitted both the power and right of government, in this



CHAPTER and every other case, not only to act the part of a court  
 II  
 \_\_\_\_\_ of equity in bringing exorbitant nominal claims within

1790. the limits of reason and fair dealing, but, where the stability of the social system was in danger, to decline altogether even the fulfillment of bona fide public contracts, and to interfere, should there be need, with private contracts also. Such a power, however, was only to be exercised in cases of the most extreme and palpable necessity, a case which the present circumstances of the United States did not present.

Feb 11. Scott's motion having been voted down, Madison rose to explain his views. In all the former business of the House he had acted as leader, but on this question he had hitherto preserved silence. No logio, he thought, could disprove the obligation of the United States to pay the whole amount, principal and interest, promised on the face of their certificates. But to whom should this payment be made? Where the certificates remained in the hands of the original holders, no question of this sort could arise; but in cases of transfer, there seemed to be two parties having a claim upon the justice of the nation. The original holder, obliged to take a certificate depreciated, at the moment it was given, to a sixth or seventh of its nominal value, might justly allege that such a certificate could not fairly be esteemed a discharge of the debt; and in support of that view, might refer to the case of the depreciation allowances made to the army during the late war. The holder, on the other hand, might say, that in taking the risk of losing the whole, he had justly acquired, in accordance with the tenor of the certificate, a right to the full amount. To pay both sets of claimants in full would perhaps exceed the ability of the nation; at any rate, it would be to refund a sum greatly beyond that originally received by the pub-

lio, a stretch of generosity not expected by the world, CHAPTER II. nor by the parties themselves. To deprive the present holders of a fair profit on their speculation would be fatal 1790. to the proposed establishment of public credit. To make the unfortunate persons who had sold their certificates at a great sacrifice, and who were now to be taxed to pay the present holders, the sole victims, was abhorrent to every principle of humanity. He proposed, therefore, and he moved an amendment to that effect, that while holders by transfer should receive the highest price which the certificates had ever yet borne in the market, thus giving to the larger part of them a very handsome profit, the balance, amounting to one half or more of the entire amount, should be paid to the original creditors.

This proposition, which seems to have taken the House quite by surprise, was very far from meeting the views entertained on either side of it. It had been the object of those who had attempted to belittle the claim of the present holders to find an excuse in so doing for a new repudiation. If nothing could be saved to the public, they cared but little to whom the money was paid. Those, on the other hand, who went for full payment, whether impelled by the policy of supporting the public credit, or through desire of attaching the moneyed interest to the support of the new government, were little disposed to favor a proposition which the very moneyed men whom it was desired to gain over would hardly fail to consider a violation of their rights.

Boudinot objected to the impracticable character of Madison's proposition. The certificates being payable to bearer, had often issued to merely nominal persons, and not to the actual creditors. This was especially the case with those paid out for supplies furnished to the army, the commissioners taking a quantity of certificates

CHAPTER II. payable to themselves which they transferred by delivery.

1790. Sedgwick objected that the proposed partition of payment between the original holder and his assignee would have the effect of an ex post facto law, or, at all events, of a law violating the obligation of contracts, amounting, in fact, to a transfer back to the original creditor of a part of that property with which he had voluntarily parted for a valuable consideration, an interference with private contracts highly dangerous as well as unconstitutional. The loss suffered by the original creditors, whether by the fault or the misfortune of the government, could not justify the making reparation by seizing for that purpose on the lawfully-acquired property of other people. Even granting that the original creditor might have an equitable claim on the present holder for a part of the money, it was the business, not of Congress, but of the judicial courts, to enforce that claim; and to them it should be left. Similar views were urged with great ability by Lawrence and Smith of South Carolina. Ames poured out against Madison's proposition a torrent of invective. Benson, Hartley, Goodhue, and Wadsworth maintained the right of the present holders to the entire payment. The galleries were crowded with spectators, many of them large holders of certificates, who looked on with beating hearts. The unexpected payment in full which the secretary had proposed, seemed to them already like a property in possession; and men who would have been well satisfied a few months before to be secure of fifty per cent. on the face of the certificates, regarded now with no little indignation the proposal to allow to them that sum, and as much more to the original holders.

Madison's proposition was supported by Jackson and Page, and by his two colleagues, White and Moore, but

their speeches added nothing to the argument. They seemed, indeed, to be very much under the influence of CHAPTER  
II.                      envy at the great profits about to be made—profits in 1790. which the planters would have little share, but which would chiefly redound to merchants and money-lenders. They drew pathetic and rather highly-colored pictures of war-worn veterans seduced by the artful persuasions of cunning speculators to sell their certificates for a great deal less than the value. In fact, the whole business of the purchase of certificates was denounced as having been little better than a fraud.

This drove some speakers on the other side into questioning whether the soldiers, after all, had such claims on the government as had been represented. Taking their enormous bounties into consideration, they had been better paid than any other soldiers. The public creditors, who had transferred their certificates, had asked for no such relief as this motion proposed, nor could they accept it with honor. They had voluntarily transferred their whole claim for a valuable consideration, and any thing which might now be paid to them under color of discharging that claim they would be bound in honor and justice to pay over to their assignees.

To all the denunciations, some of them rather warm, leveled against his motion, as if it were a proposal to rob the present holders of the certificates for the benefit of the original creditors, Madison replied with great calmness and dignity. He admitted that, according to the strict rules of law, the present holders were alone entitled to payment, and that the original creditors, in parting with their certificates, had lost all legal claim on the government; but their claim in equity still remained, and a great political question like this was not to be settled on mere grounds of technical jurisprudence. The

CHAPTER II. great object in paying at all was avowed to be the political object of establishing public credit. In strict justice,

1790. the present holders might be entitled to the whole face of the certificates, and the original creditors to an additional indemnity out of the public treasury equal to the difference between the face of the certificates and the sums for which they had been obliged to sell. But the nation was able, or, what in a government like ours amounted to the same thing, was willing to pay no more in the whole than a sum equal to the original debt, with the interest upon it. How should that sum be distributed? Should all of it go to the mere technical creditor, whose sole merit consisted in having confidence enough in the government to speculate in its securities, or should those also come in for a share by whom services had actually been rendered and supplies actually furnished, but whom the necessities of government and their own had compelled to accept a very partial equivalent? Holders of certificates by purchase had unquestionably a certain merit and a certain claim; but ought they not to be satisfied with being paid the utmost amount which, prior to the secretary's report, they could have expected, and which they would then have very gladly received? Those who, for services performed and advances made, had realized but a very inadequate recompense, had also a merit and a claim. Would not the public credit be better established by recognizing both these claims, and meeting both to the extent of the public means, rather than by paying one in full to the total exclusion of the other? That method would establish a credit only with capitalists; the other would establish a credit not less essential with those from whom was to be expected the actual rendition of services.

Gerry, Ames, and Lawrence replied at great length.

advocating the claims of holders by purchase to payment in full. At the same time, Gerry expressed his willingness to make up to that part of the army which had been paid in certificates the full amount of their loss by depreciation, which, according to a calculation which he submitted, would not require more than two millions of dollars. Bland favored that plan.

If the public were to be taxed to the full amount of the debt, Lawrence thought the money ought to go to the present holders. Burke took the same side. He thought that at least the officers of the army had been well enough paid already, in honors, if not in money. "In South Carolina, no other class of citizens stood any chance in competition with officers. They were promoted to the stations of governor, of lieutenant governor, of privy counselors; they were to be found presiding in the tribunals of justice, in the Legislature, and on the floor of Congress; and the gratitude of the people followed them even in the private walks and ordinary occupations of life. He mentioned this as an answer for the people, to clear them from the charge of ingratitude."

"If paper," said Madison, in reply, "can discharge just debts, payable in gold and silver, we can exonerate ourselves not only from those due to the original creditors, but from the claims of the assignees also. So far as paper goes, it is they who already possess that compensation. If honors can discharge the debt, they too have received civil honors. Look round to every state in the Union, and you will see these assignees sharing distinctions equal to those bestowed on the original creditors. But the debt due in gold and silver is not payable in honors, nor appointments, nor paper." He insisted that the objections to the practicability of his scheme, a good deal dwelt upon by several speakers,

CHAPTER II. were not solid. The records of the five great staff departments of the Continental army, and those of the com-

1790. missioners of loans, would furnish most of the necessary information. Cases in which the certificates had issued in names other than those of the actual creditors might be adjudicated by a board with full powers for that purpose.

Equitable as Madison's proposition might seem to be, it was supported by only thirteen votes to thirty-six against it, including among the negatives all the lawyers and merchants in the House. The few who supported Madison were all planters, and most of them his own colleagues. There were, indeed, very serious difficulties in the way of carrying such a scheme into execution, but the principal obstacle was of a different character. The holders of the certificates had the great advantage of having in hand the legal evidence of a liquidated debt; and however the claim of the original creditors, subjected to loss by the failure of the government to fulfill its obligations, might, in abstract equity, be equally strong, according to the established usages of law and commerce, and the uniform tenor of prevailing ideas, it was not so regarded. The one was considered a claim on the justice, the other on the benevolence of Congress, and it was insisted that the nation ought to be just before it undertook to be generous. With this disadvantage to begin with, what chance had the mass of poor persons, soldiers and farmers, without organization and unknown to each other, who had sold their certificates at a loss, as compared with the wealthy and watchful body of the present holders, able to bring so many influences to bear, and active in doing so?

Madison's motion being rejected, Fitzsimmons's second resolution was carried, as was also the third, which

affirmed that the interest of the domestic debt ought to be provided for on the same terms with the principal. CHAPTER  
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Upon the fourth resolution, that respecting the assumption of the state debts, there arose a vehement debate, which grew presently to be very acrimonious. 1790.  
Feb. 22.

The amount of the debts with which the individual states had found themselves burdened at the close of the late war, and also the policy since pursued as to the discharge of the interest and principal, had been very various. Massachusetts and South Carolina, notwithstanding a considerable reduction of principal by sales of lands, still owed upward of five millions each. Hitherto Massachusetts had been enabled to pay the interest, though not quite to the full amount, nor very punctually, out of the proceeds of an impost on goods imported and an excise on certain articles of consumption. The impost was lost already by the adoption of the Federal Constitution; and should a federal excise be imposed, as the secretary's report recommended, the state excise would have to be given up, as two taxes of that kind could hardly be collected simultaneously. Opposed hitherto in almost every thing else, the states of Massachusetts and South Carolina agreed in warmly supporting the assumption of the state debts. Connecticut, whose debt was about two millions, was in favor of the same policy.

The debt of Virginia had been greatly reduced by funding the outstanding state paper money at a thousand for one, and by extensive sales of Kentucky lands. Land warrants, in fact, had been disposed of sufficient to cover that entire district two or three times over. The Virginia debt stood at present at about three millions and a half, upon which the interest had been regularly paid by means of a tax on imports. Considering



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herself as having done much more than any other state to relieve her own embarrassments, Virginia was strongly opposed to the assumption, as a measure by which she would lose more than she would gain. To this might be added political objections to it, as tending to an augmentation of the influence of the federal government. Maryland, which owed less than a million, was inclined to the same view. Pennsylvania, whose debt was less than two millions, the interest upon which had all been regularly paid, seemed to tend in the same direction, but a part of her members supported the assumption on federal grounds. It was also supported by New York and New Jersey, the one owing considerably more, the other considerably less than a million. Georgia and New Hampshire, whose debts were small, took the opposite side. The debt of Delaware was trifling, but Vining, the able representative of that state, supported the assumption as a federal measure.

The unsettled condition of the accounts between the states and the Union left ample room for presumptions on both sides. It was argued in favor of the assumption that, when the final settlement came to be made, it would turn out that the Union was indebted to the states in just about the amounts which it was now proposed to assume, the debts of the states being a pretty good test of their relative exertions in the common cause. That settlement was now going on by a board constituted by the late Continental Congress, a provision for filling vacancies in it having been made by an act of the former session. These state debts were equally meritorious with those of the Union, and the whole might best be provided for by one common system, thus avoiding any clash in the matter of taxes between the states and the Union, and the heart-burnings and jealousies which might

otherwise arise between state and federal creditors. Not CHAPTER II. to assume would indeed be highly unjust, since the taxation necessary to meet the interest on the federal debt 1790. would effectually disable the states to provide for their own. Even hitherto the state interest had been but partially met, notwithstanding the resources of duties on imports, and, in some states, of paper money, both of which were now gone.

On the other hand, it was said to be very unjust that states which had regularly paid the interest, and had exerted themselves to reduce the principal of their debts, should be called upon to make up for the deficiencies of their dilatory neighbors. That the state debts afforded any probable test of the balances of account between the states and the Union was denied ; indeed, the probability, should the assumption take place, that any such settlement would ever be made, was pointedly called in question. Certain items of the state debts, the cost of the unfortunate Massachusetts expedition to Penobscot, the purchase of a state frigate by South Carolina, the sum allowed by Pennsylvania as an indemnity to the Penn family, and the certificates issued by New York for the benefit of certain original owners of confiscated estates, were pointed out as especially unfit to be assumed by the Union. Comparisons were also made as to the relative merits and sacrifices of the states, the debate at times becoming very warm.

The assumption was supported by Lawrence, Ames, Sedgwick, Sherman, Clymer, Burke, Smith of South Carolina, Fitzsimmons, and Gerry. It was strongly opposed by Stone of Maryland, Livermore, Jackson, and White. Madison proposed that, simultaneously with the assumption, effectual provision should be made for liquidating the accounts between the states and the Union.

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White wished to limit the assumption to such amounts as should appear on settlement to have been advanced beyond the quota of the states. But this latter proposition failed, as did another motion of Madison's, that payments hitherto made to state creditors should be included in the assumption as a part of the state debts. By the Articles of Confederation, the appraised value of houses and cultivated lands was to form the basis for distributing among the states the expenses of the general government, including those of the late war. As the difficulties in the way of such an appraisement had hitherto prevented its being made, Ames proposed to substitute for it that federal ratio of population, including all the freemen and three fifths of the slaves, the basis under the new Constitution of representation and direct taxes. This motion prevailed, and the resolutions of which it formed a part became the foundation of an act providing for a final settlement of accounts between the states and the Union.

March 9. The resolution to assume the state debts finally passed the committee by a vote of thirty-one to twenty-six; but the members elect from North Carolina who had not yet taken their seats were now daily expected, and as they were known to be strongly opposed to the assumption, a speedy reversal of this vote was confidently relied upon. In the midst of the agitation as to the public debt, the House became involved in another discussion still more exciting, in reference to slavery and the slave trade. Slavery still existed in every state of the Union except in Massachusetts. A clause in the Constitution of that state, declaring all men to be born free and equal, inserted for the express purpose of tacitly abolishing slavery, had been judicially decided (1783) to have that effect. A few months previously to the final adoption of the Con-

stitution of Massachusetts, the State of Pennsylvania CHAPTER II. had passed an act (1780) introducing a system of gradual emancipation, prohibiting the further importation of slaves (and by a subsequent act their exportation), and assuring freedom to all persons thereafter born in that state or brought into it, except runaways from other states and the servants of travelers and others not remaining above six months. This Pennsylvania system of gradual emancipation had been imitated in the states of Connecticut, Rhode Island, and New Hampshire. The other eight states retained their old colonial slave-holding systems. But New York, New Jersey, Delaware, Maryland, and Virginia had prohibited the further importation of slaves, and in Virginia and Maryland the old colonial restrictions on emancipation had been repealed, leaving thereby full play, and not without considerable results, to the conscience and generosity of the slave-holders. Jefferson and Wythe, as commissioners to revise the statute law of Virginia, had agreed upon a bill for gradual emancipation; but when the revision of the statutes came before the House of Delegates (1785), Jefferson was absent as minister at Paris, those who shared his opinions thought that the favorable moment had not arrived, and the bill was not brought forward. Even in New York, an attempt (1785) to pass an act for the gradual abolition of slavery had failed to succeed. Yet in all the states, from North Carolina northward, warm opponents of slavery and ardent advocates for emancipation were more or less numerous, including many distinguished citizens. Influenced, perhaps, by the sarcasms thrown out in the Federal Convention, Rhode Island, shortly after the adjournment of that body, had passed a law (Oct., 1787) forbidding its citizens to engage in the slave trade. The

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kidnapping of three colored persons at Boston, enticed on board a vessel and carried to the West Indies, where they were sold as slaves, produced a great excitement in Massachusetts, and occasioned (1788) a similar prohibitory act there—an example speedily imitated by Connecticut and Pennsylvania. But as the Federal Constitution gave to Congress the exclusive regulation of commerce, it had become very questionable whether these laws retained any force.

Nor was the opposition to slavery confined to legislative acts alone. The United Synod of New York and Philadelphia, while constituting themselves as the General Assembly of the Presbyterian Church in America, had issued a pastoral letter (1788), in which they strongly recommended the abolition of slavery and the instruction of the negroes in letters and religion. The Methodist Episcopal Church, lately introduced and rapidly increasing, especially in Maryland and Virginia, had even gone so far as to disqualify slave-holders to be members of their communion. Coke, the first bishop, was exceedingly zealous on this subject; but the rule was afterward relaxed. In consequence of the efforts and preaching of Woolman and others, opposition to slavery had come to be a settled tenet of the Quakers.

The same opinions had been taken up as matters of humanity and policy as well as of religion. A society “for promoting the abolition of slavery, for the relief of free negroes unlawfully held in bondage, and for improving the condition of the African race,” had been organized in Philadelphia (1787), of which Franklin was president, and Dr. Rush and Tench Coxe secretaries. A similar society had been formed in New York, of which Jay was an active member; and this example already

had been or soon was imitated in all the states from Virginia northward. CHAPTER  
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A few days after the commencement of the debate on the public debt, a petition from the yearly meeting of the Quakers of Pennsylvania and Delaware, seconded by another from the Quakers of New York, had been laid before the House, in which it was suggested whether, notwithstanding "seeming impediments," occasioned by "the influence and artifice of particular persons, governed by the narrow, mistaken views of self-interest," it was not within the power of Congress "to exercise justice and mercy, which, if adhered to," the petitioners could not doubt, "must produce the abolition of the slave trade." 1790.  
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Hartley moved the reference of this memorial to a special committee. Supported by Madison and his colleagues, Parker, Page, and White, by Lawrence, Sedgwick, Boudinot, Sherman, and Gerry, this motion was violently opposed by Smith of South Carolina, Jackson, Tucker, Baldwin, and Burke, not without many sneers at "the men in the gallery"—the Quaker deputation appointed to look after the petition—"who had come here to meddle in a business with which they had nothing to do." Finally, on a suggestion of Clymer's, supported by one of the rules of the House, the memorial was suffered to lie over till the next day.

At the opening of the session that next day, another petition was presented relating to the same subject, coming from the Pennsylvania Society for the Abolition of Slavery. It was signed by Franklin as president—one of the last public acts of his long and diversified career. He died within a few weeks afterward. "That mankind," said this memorial, "are all formed by the same Almighty Being, alike objects of his care, and

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equally designed for the enjoyment of happiness, the Christian religion teaches us to believe, and the political creed of Americans fully coincides with that position. Your memorialists, particularly engaged in attending to the distresses arising from slavery, believe it their indispensable duty to present this subject to your notice. They have observed, with real satisfaction, that many important and salutary powers are vested in you for promoting the welfare and securing the blessings of liberty to the people of the United States; and as they conceive that these blessings ought rightfully to be administered, without distinctions of color, to all descriptions of people, so they indulge themselves in the pleasing anticipation that nothing which can be done for the relief of the unhappy objects of their care will be either omitted or delayed.

“From a persuasion that equal liberty was originally the portion, and is still the birthright of all men, and influenced by the strong ties of humanity and the principles of the Constitution, your memorialists conceive themselves bound to use all justifiable endeavors to loosen the bonds of slavery, and promote a general enjoyment of the blessings of freedom. Under these impressions, they earnestly entreat your serious attention to the subject of slavery, that you will be pleased to countenance the restoration of liberty to those unhappy men who alone, in this land of freedom, are degraded into perpetual bondage, and who, amid the general joy of surrounding freemen, are groaning in servile subjection; that you will devise means for removing this inconsistency from the character of the American people; that you will promote mercy and justice toward this distressed race; and that you will step to the very verge of the power vested in you for discouraging every species of traffic in the persons of our fellow-men.”

Immediately after the reading of this petition, which <sup>CHAPTER II</sup> could not have much tended to soothe the excitement of the day before, Hartley called up the Quaker memorial, and moved its commitment. In opposition to this motion, Tucker and Burke took the ground that the memorial contained an unconstitutional request, as Congress had no power to meddle with the slave trade for twenty years to come. Tucker pronounced it "a mischievous attempt, an improper interference, at the best, an act of imprudence." Burke was certain that the commitment "would sound an alarm and blow the trumpet of sedition through the Southern States." 1790.

"I can not entertain a doubt," said Scott, in reply, "that the memorial is strictly agreeable to the Constitution. It respects a part of the duty particularly assigned to us by that instrument. We can at present lay our hands on a small tax of ten dollars. I would take that; and if that is all we can do, we must be content. I am sorry the framers of the Constitution did not go further, and enable us to interdict the slave trade altogether, for I look upon it to be one of the most abominable things on earth; and if there were neither God nor devil, I should oppose it on principles of humanity and the law of Nature. For my part, I can not conceive how any person can be said to acquire a property in another. The petitioners view the subject in a religious light; but I stand not in need of religious motives to induce me to reprobate the traffic in human flesh. Perhaps, in our legislative capacity, we can go no further than to impose a duty of ten dollars; but I do not know how far I might go if I was one of the judges of the United States, and these people were to come before me and claim their emancipation. I am sure I would go as far as I could." Jackson maintained, in reply, "the qualified



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property of the master in his slave ;" he referred to the example of the republics of antiquity ; and relied "on 1790. the whole current of the Bible from Genesis to Revelations," as proving that religion was not against slavery.

Sherman "could see no difficulty in committing the memorial. It was probable the committee would understand their business, and perhaps they might bring in such a report as would be satisfactory to gentlemen on both sides of the House." Baldwin "was sorry that a subject of so delicate a nature, as respected some of the states, had been brought before Congress. Such gentlemen as had been present at the formation of the Constitution could not but recollect the pain and difficulty which this subject had then occasioned. So tender were the Southern members on this point, that the Convention had well-nigh broken up without coming to any determination. From extreme desire to preserve the Union and to establish an efficient government, mutual concessions had resulted, concessions which the Constitution had jealously guarded. The moment we go to jostle on that ground, I fear we shall feel it tremble under our feet. The clause in the Constitution, that no capitation or direct tax should be laid, except in proportion to the census, was intended to prevent Congress from laying any special tax upon slaves, lest they might in that way so burden the owners as to bring about a general emancipation. Gentlemen have said that this petition does not pray for the abolition of the slave trade ; I think, sir, it prays for nothing else, and that, consequently, we have nothing more to do with it, than if it prayed us to establish an order of nobility or a national religion."

The same ground, the unconstitutionality of the object prayed for, was relied upon by Smith of South Carolina

as a reason for not committing the memorial. "Not-  
withstanding all the calmness with which some gentle-  
men have viewed the subject, they will find that the  
mere discussion of it will create alarm. We have been  
told that, if so, we should have avoided discussion by say-  
ing nothing. But it was not for that purpose we were  
sent here. We look upon this measure as an attack  
upon property; it is, therefore, our duty to oppose it by  
every means in our power. When we entered into a  
political connection with the other states, this property  
was there. It had been acquired under a former gov-  
ernment conformably to the laws and Constitution, and  
every attempt to deprive us of it must be in the nature  
of an ex post facto law, and, as such, forbidden by our  
political compact." Like the other speakers on that  
side, Smith indulged in a good many slurs on the Quak-  
ers. His constituents wanted no lessons in religion and  
morality, and least of all from such teachers.

Madison, Page, Gerry, and Boudinot advocated the  
commitment. As to the alarm which it was said would  
be produced by committing the memorial, Page thought  
there might be greater ground for alarm should they re-  
fuse to commit it. "Placing himself in the case of a  
slave, on hearing that Congress had refused to listen to  
the decent suggestions of a respectable part of the com-  
munity, he should infer that the general government,  
from which great good was expected to every class, had  
shut their ears against the voice of humanity. If any  
thing could induce him to rebel, it must be a stroke like  
this, impressing on his mind all the horrors of despair.  
Were he told, on the other hand, that application was  
made in his behalf, and that Congress were willing to  
hear what could be urged in favor of discouraging the  
importation of his fellow-wretches, he would still trust in

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their justice and humanity, and patiently await their decision. Presuming that these unfortunate people

1790. would reason in the same way, he thought that to commit the petition was the likeliest means to avert danger. He lived in a state which had the misfortune to have in her bosom a great number of slaves. He held many himself, and was, he believed, as much interested in the business as any gentleman in South Carolina or Georgia. Even were he determined to hold them in eternal bondage, he should feel no uneasiness at the reference of the memorial, relying on the virtue of Congress, and their disinclination to exercise any unconstitutional power." "Though Congress were restricted by the Constitution from immediately abolishing the slave trade, yet there were a variety of ways," so Madison remarked, "by which they might countenance the abolition of that traffic. They might, for example, respecting the introduction of slaves into the new states to be formed out of the Western Territory, make regulations such as were beyond their power in relation to the old settled states, an object which he thought well worthy of consideration."

Gerry "never contemplated this subject without reflecting what his own feelings would be were himself, his children, or his friends placed in the same deplorable circumstances. He thought the subject-matter of the memorial clearly within the powers of Congress. They had the power to lay at once a duty of ten dollars per head on imported slaves. They had the right, if they saw proper, to propose to the Southern States to purchase the whole of their slaves, and their resources in the Western Territory might furnish them with the means. He did not intend to propose any scheme of that kind, but only referred to it, to show that Congress had a right to deal with the matter."

The question being taken by yeas and nays, the ref-  
 erence was carried, forty-three to eleven. Of these CHAPTER  
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 eleven, six were from Georgia and South Carolina, being 1790.  
 all the members present from those two states, two were  
 from Virginia, two from Maryland, and one from New  
 York. North Carolina was not yet represented.

The special committee to whom the memorial was  
 referred, consisting of one member from each of the fol-  
 lowing states, New Hampshire, Massachusetts, Connect-  
 icut, New York, New Jersey, Pennsylvania, and Vir-  
 ginia, after a month's delay brought in a report con-  
 sisting of seven resolutions: 1st. That the general gov-  
 ernment was expressly restrained, until the year 1808,  
 from prohibiting the importation of any persons whom  
 any of the existing states might till that time think  
 proper to admit. 2d. That, by a fair construction of the  
 Constitution, Congress was equally restrained from inter-  
 fering to emancipate slaves within the states, such slaves  
 having been born there, or having been imported within  
 the period mentioned. 3d. That Congress had no power  
 to interfere in the internal regulation of particular states  
 relative to the instruction of slaves in the principles of  
 morality and religion, to their comfortable clothing, ac-  
 commodation, and subsistence, to the regulation of mar-  
 riages or the violation of marital rights, to the separation  
 of children and parents, to a comfortable provision in  
 cases of age or infirmity or to the seizure, transporta-  
 tion, and sale of free negroes; but entertained the full-  
 est confidence in the wisdom and humanity of the state  
 Legislatures that, from time to time, they would revise  
 their laws, and promote these and all other measures  
 tending to the happiness of the slaves. These three res-  
 olutions were of a negative character, designed to ap-  
 pease the alarm of the Southern members. The remain-

CHAPTER der were of a more positive cast. The fourth asserted  
II. that Congress had authority to levy a tax of ten dollars,  
1790. should they see fit to exact it, upon every person imported under the special permission of any of the states. The fifth declared the authority of Congress to interdict or to regulate the African slave trade, so far as it might be carried on by citizens of the United States for the supply of foreign countries, and also to provide for the humane treatment of slaves while on their passage to any ports of the United States into which they might be admitted. The sixth asserted the right of Congress to prohibit foreigners from fitting out vessels in the United States to be employed in the supply of foreign countries with slaves from Africa. The seventh expressed an intention on the part of Congress to exercise their authority to its full extent to promote the humane objects aimed at in the Quakers' memorial.

This report was presented the day after the Committee of the Whole had disposed of Fitzsimmons's resolution in relation to the public debt; and the excitement as to the assumption of the state debts had by no means subsided, when there ensued on this new subject a six days' discussion of a character still more angry and violent.

March 16. After a warm speech against the injustice and unconstitutionality of meddling with the question of slavery in any shape, Tucker moved to strike out the whole report, and to substitute for it a simple resolution, refusing to take the memorial into consideration "as unconstitutional, and tending to injure some of the states of the Union." Jackson seconded the motion in a speech equally warm, to which Vining replied. But this motion of Tucker's, after a good deal of time spent upon that point, was declared out of order.

White of Virginia moved to strike out the first reso-

ation as containing a definition of the powers of Congress, a subject not referred to the committee. His colleague, Moore, passing by the report, attacked the memorial and its authors, accusing the Quakers of harboring runaway slaves. He hoped emancipation would take place at a proper time, but he wished to have it brought about by other means than by the influence of people who had been inimical to independence. Burke was not an advocate for slavery, but he wished to preserve the tranquillity of the Union, which this unnecessary and impolitic measure bade fair to throw into a state of confusion. The memorial was a reflection on the Southern States. The negroes there lived better and in more comfortable houses than the poor of Europe. He referred to an advertisement which he had lately seen in a New York paper of a woman and child to be sold. That, he declared, was a species of cruelty unknown in the Southern States. There the negroes have property, horses, cattle, hogs, and furniture. With respect to their ceremony of marriage, they took each other from love and friendship. Though eastern gentlemen expressed so great an antipathy to this species of property, many of them who settled in the South became as fond of it as any others—a fling to which Gerry subsequently replied that the Eastern States could not be held responsible for the misdoings of their emigrant citizens, since it was no uncommon thing, even in the animal world, for exotics to degenerate.

Smith of South Carolina exerted his utmost efforts in an elaborate defense of slavery and the slave trade, the objections to which he considered to spring from a “misguided and misinformed humanity.” The Southern States required slaves to cultivate their lands, which could not be done by white people. A white laborer

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from the Northern States asks two dollars per day when employed in any of the Southern States. The low countries, in which rice and indigo are cultivated, would be deserted if emancipation took place; and what would then become of the revenue? To set the slaves loose would be a curse to them. A plan had been thought of in Virginia of shipping them off as soon as they were freed, and this was called humanity! Jefferson's scheme for gradual emancipation, as set forth in his Notes upon Virginia, was derided as impracticable. Emancipation would probably result in an exterminating war. If, on the other hand, a mixture of blood should take place, we should all be mulattoes! The very advocates of manumission held the blacks in contempt, and refused to associate with them. No scheme could be devised to stop the increase of the blacks, except a law to prevent the intercourse of the sexes, or Herod's scheme of putting the children to death. The toleration of slavery was said to bring down reproach upon America, but that reproach belongs only to those who tolerate it, and he was ready to bear his share. It was said, also, that slavery vitiates and debases the mind of the slave-holder, but where is the proof? Do the citizens of the South exhibit more ferocity in their manners, more barbarity in their dispositions, than those of the other states? Slavery was first introduced into the West Indies by Las Casas from motives of humanity. The French promote the slave trade by premiums; and are not the French a polished people, sensible of the rights of mankind, and actuated by just sentiments? The Spaniards encourage slavery, and they are people of the nicest honor, proverbially so. The Greeks and Romans held slaves, and are not their glorious achievements still held up as incentives to great and magnanimous actions? Sparta

toemed with slaves at the time of her greatest fame as a CHAPTER  
II valiant republic. Much had been said of the cruel treatment of slaves in the Southern States and the West Indies. As to the Southern States, from experience and information, he denied the fact; he believed in his conscience that the slaves in South Carolina were a happier people than the lower order of whites in many countries he had visited. As to the West Indies, Lord Rodney and Admiral Barrington, both of whom had spent some time there, had lately declared in the House of Commons that they had never heard of a negro being cruelly treated, and that they should rejoice exceedingly if the English day laborers were half as happy. 1790.

The abolition of the slave trade would cause an African massacre, for it was well known to be the custom to put to death all such slaves as were brought to the coast and not sold. The cruelty of the method of transportation was alleged as a motive for abolishing the traffic; but surely the merchants would so far attend to their own interests as to preserve the lives and health of the slaves on the passage. All voyages must be attended with inconveniences, and those from Africa to America not less than others. The confinement on board was no more than was necessary. The space allowed was more than to soldiers in a camp; for the cubical measurement of air breathed by encamped soldiers fell below that allowed in the slave-ships, in the ratio of seventeen to thirty.

So long as attacks upon slavery and the slave trade had been merely of a speculative character, confined to the pages of philosophers, travelers, and historians, nobody had thought of defending them. But now that there seemed danger of legislative interference, they had found many strenuous advocates on both sides of the Atlantic, of whose reasoning Smith's speech may be taken



CHAPTER II. as a specimen and a summary. Of the new arguments  
lately put forth on this subject in England, he was evidently a master.  
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Baldwin "was in hopes that the experience of the House had convinced them of the impropriety of entering at all on this business. It was a reckless wandering without guidance, and the longer it was continued, the more inextricable their perplexities would become. The same memorial, he was informed, had been presented to the Senate, but they had taken no notice of it. They had even negatived a motion that it should lie upon the table ; they would not blot their paper with the subject at all. He hoped this House would imitate the wisdom of the Senate, and pursue the subject no further. The most important business of the Union, the plan for the support of the public credit, the division of North Carolina into collection districts, the Post-office Act, the Additional Revenue Act, on which nearly half the resources of the year depended, were all pressing for early attention, and had all been laid aside as of no account, had all been made to yield to this report. And yet no bill was brought forward to be enacted into a law ; nothing but a string of propositions in exposition of different articles of the Constitution, but which, in fact, concluded nothing.

" Another reason for pursuing this business no further was the influence it manifestly had on the temper of the members. For several days the House had been in a constant storm. This subject contained materials of the most combustible character ; it had always been among the most contentious in the government of the country. In different parts of the Union there was a well-known clashing of feelings and interests on this subject. It was long a doubt whether it would not form an insuperable bar to our union as one people, under one government.

In the Constitution that difficulty had been surmounted, and, so far as he had been informed, almost to universal satisfaction. The strength and violence of majority had been expected on this subject; and as it was not unknown on which side the majority was, security against it was settled deep among the pillars of the government. He had not felt the least alarm that the rights of his constituents would be disturbed. The House, from its constitution, would be in some respects a mirror to reflect all the passions of the people. It was wise that the feelings of the people should have an opportunity to bear a part in legislation; and, though sometimes inconvenient, it would not be dangerous, since there was another branch of the Legislature whose concurrence was necessary in all public measures. From the manner in which that body was constituted, and from experience already had, he doubted not the Senate would give to our government that wisdom and firmness which otherwise it would not possess. Acts of Congress must also have the approbation of the man whom the people, in the remotest regions of the country, regard as their father. After all, should there be any doubt of the constitutionality of the measures of Congress, they can not be carried into effect without the approval of the Supreme Court of the United States, composed of six of our most venerable sages, forming one of the most respectable courts upon earth, possessing our confidence as well from the independence of their position as from the long experience we have had of their wisdom. On this, as on all other occasions, he should see the effects of majority and of public passion on this subject totally unconcerned. The uproar of contending waves was not pleasant, but they were dashing against a rock."

This speech of Baldwin's was on a motion of Benson's,

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CHAPTER II. which Baldwin had seconded, to recommit the report, with a view to give the whole matter the go-by. But 1790. the majority were not thus to be driven from their purpose. The motion to recommit was voted down, and the report was then taken up article by article. The three first resolutions (those relating to the power of Congress over slavery in the states) were adopted, the second and third being compressed into one, dropping the somewhat offensive details, but retaining the substance. Upon the fourth resolution—that relating to the ten dollar tax on slaves imported—the struggle was renewed. Tucker moved to strike it out, in which he was supported by Baldwin, apparently on the ground that the resolution did not fairly express the sense of the Constitution. Hartley took this occasion to defend the committee against some strictures of Burke's; but Burke still insisted that every clause in the report was drawn in ambiguous words, so as to involve in some measure such an interpretation as the Quakers wished. He acquitted the committee of any bad intention; yet he could not but think that, throughout the whole business, the Southern members had been very hardly dealt by. The demand of the Quakers, as iniquitous as it was impolitic, had been referred to a committee. The Southern members, dragged, as it were, in spite of their remonstrances, to the bar of the House, had been set to defend their reputation and property against the Quakers, for whose right to offer such petitions gentlemen had strenuously contended. He hoped not to be out of order in offering another remark. The Southern States were able to defend, and he hoped would defend, their property. No doubt those states would pass laws punishing as incendiaries any Quakers or others who should be found exciting their domestics to conspiracies or insurrections.

Page was in favor of the ten dollar duty, not only as a proper regulation of commerce, but to show that Congress, as far as lies in their power, were disposed to discourage a shameful traffic. He was willing, however, to strike out the resolution, and that for two reasons. Without any such resolution, Congress would still have the power to lay the tax. Should the power be asserted, and then the tax not be laid, it would look too much like temporizing, like seeming to yield to the demand of the Quakers, while in heart the House was still as much against it as those by whom the Quakers and their memorial had been so heartily abused. CHAPTER  
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Smith of South Carolina believed that the committee had been desirous so to frame this report as to please all parties. Some clauses were meant to allay the fears of the Southern members, others were calculated to gratify the memorialists. The clause now under consideration seemed to be intended for that purpose; yet he was persuaded it would not be agreeable to the Quakers. Their nice feelings would not be gratified by a tax of this kind, the imposition of which would make slaves an article of commerce. He and his colleagues had been censured for making this business so serious. But was it reasonable to require them to give up the right to be heard? Had the Southern members been silent on this occasion, and not expressed themselves as they had done, they would have betrayed the charge intrusted to them.

On the question of striking out the fourth resolution, the committee was equally divided, but the motion was carried by the casting vote of Benson, the chairman.

The fifth resolution, affirming the power of Congress to regulate the slave trade, was vehemently opposed by Jackson, Tucker, and Smith, as was also a modification of it offered by Madison. It was said that, under pre-

CHAPTER II. tense of regulating the trade, Congress might, in fact, prohibit it entirely. They might insist, for instance, on 1790. such expensive accommodations and such costly provisions as would deter merchants from engaging in it. They might prohibit vessels of less than six hundred tons burden to engage in the traffic, whereas no vessel of that size could get across Charleston bar.

The patience of some of the Northern members began at length to give way. Vining of Delaware thought the Southern gentlemen ought to be satisfied with the alterations already made to please them. Some respect was due to the committee which had framed the report, and to the prevailing sentiment of the country. All the states, from Virginia to New Hampshire, had passed laws against the slave trade. He entered also into a defense of the Quakers, many of whom were still present in the gallery, and whose treatment, by several gentlemen, he thought cruel and unjustifiable. But this only served to draw out from the fluent Jackson a new torrent of abuse, a strain in which even Smith did not hesitate to join. Baldwin thought the regulation of the slave trade had better be left to the states that tolerate it. He insinuated some doubts, though he would not venture to express a decided opinion, how far the power to regulate commerce gave to Congress the right to pursue an individual citizen in his business between one foreign nation and another. Tucker pushed this argument to a much greater extent, denying the right of Congress over citizens trading out of their jurisdiction, any further than to deprive vessels so employed of their American character. But, in spite of all the objections urged against it, the resolution, as modified by Madison, was adopted.

On the sixth resolution, that relating to the foreign

slave trade carried on from ports of the United States, CHAPTER  
 Scott made an elaborate speech. "This was a sub-  
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 ject," he remarked, "which had agitated the minds of 1790.  
 most civilized nations for a number of years, and there-  
 fore what was said, and more particularly what was  
 done in Congress at this time, would, in some degree,  
 form the political character of America on the subject of  
 slavery.

"Most of the arguments advanced had gone against  
 the emancipation of such as were slaves already. But  
 that question was not before the committee. The re-  
 port under consideration involves no such idea. It was  
 granted on all hands that Congress have no authority  
 to intermeddle in that business. I believe that the sev-  
 eral states with whom that authority really rests will,  
 from time to time, make such advances in the premises  
 as justice to the master and slave, the dictates of human-  
 ity and sound policy, and the state of society will require  
 or admit, and here I rest content.

"An advocate for slavery in its fullest latitude, at  
 this age of the world, and on the floor of the American  
 Congress too, seems to me a phenomenon in politics.  
 Yet such advocates have appeared, and many argument-  
 ative statements have been urged, to which I will only  
 answer by calling on those who heard them to believe  
 them if they can. With me they defy, yea, mock all  
 belief."

But while conceding that slavery within the states  
 was out of the constitutional reach of Congress, Scott  
 was not inclined to admit any limitation to the power  
 of that body over the importation of slaves from abroad.  
 "The clause relative to the free migration or importation,  
 until 1808, of such persons as any of the states might  
 see proper to admit, had indeed been urged as intended

CHAPTER II. to cover this very case of the slave trade, and the 'persons' referred to in that clause were said to be slaves.

1790. He could not think it satisfactory to be told that there was an understanding on this subject between the Northern and Southern members of the National Convention. He trusted there was no trafficking in the Convention. When considering our constitutional powers, we must judge of them by the face of the instrument under which we sit, and not by the certain understandings which the framers of that instrument may be supposed to have had with each other, but which never transpired. At any rate, the Constitution was not obligatory until ratified by a certain number of state Conventions, which can not be supposed to have been acquainted with the understanding in the National Convention, but must be taken to have ratified the Constitution on its own merits, as they appear on the face of the instrument. He had the honor of a seat in one of those Conventions, and gave his assent to the Constitution on those principles. He did then, he did now, and he ever should, judge of the powers of Congress by the words of the Constitution, with as much latitude as if it were a thousand years old, and every man in the Convention that framed it long since in his grave.

"I acknowledge," he added, "that by this clause of the Constitution Congress is denied the power of prohibiting, for a limited period, the importation or migration of persons, but may impose a tax or duty; and I say, as well on the white as on the black person. But some certain inadmissible qualities may be adherent to persons which, from the necessity of things, must and will, notwithstanding this provision, justify the exclusion of the persons themselves, such as a plague, or hostile designs against the Union by armed immigrants. In

such a case, if the importation were not prevented, I should be more inclined to impute it to want of physical <sup>CHAPTER II.</sup> than of constitutional power. In consistency with this 1790. mode of reasoning, I believe that if Congress should at any time be of opinion that a state of slavery attached to a person is a quality altogether inadmissible into America, they would not be bound by the clause above cited from prohibiting that hateful quality. As in the first case the plague, and in the second the enmity and arms, so in the third the state of slavery may, notwithstanding any thing in this clause, be declared by Congress qualities, or conditions, or adherents, or what you please to call them, which, being attached to any person, the person himself can not be admitted.

“By another clause of the Constitution, Congress have power to regulate trade. Under that head not only the proposition now under consideration, but any other or further regulation which to Congress may seem expedient, is fully in their power. Nay, sir, if these wretched Africans are to be considered as property, as some gentlemen would have it, and, consequently, as subjects of trade and commerce, they and their masters so far lose the benefit of their personality, that Congress may at pleasure declare them contraband goods, and so prohibit the trade altogether.

“Again, sir, Congress have power to establish a rule of naturalization. This rule, it is clear, depends on the mere pleasure of Congress. Whenever they please, they may declare, by law, that any and every person, black or white, who from foreign ports can only get his or her foot on the American shore, within the territory of the United States, shall, to all intents and purposes, be not only free persons, but free citizens. And that Congress has such power is clearly proved by the very



CHAPTER II. bill read this morning on the subject of naturalization, in which it is provided that the applicant shall be a "free white person," plainly implying that, but for that restriction, the slave black man, as well as the free white man, might avail himself of that law by fulfilling its conditions.

"Moreover, Congress have power to define and punish piracies and felonies on the high seas. Under this head, Congress may, when they please, declare by law that an American going to the coast of Africa, and there receiving on board of any vessel any person in chains or fetters, or in any manner under confinement, or carrying such person, whether sold as a slave or not, to any part of the world, without his own free will and consent, to be certified as Congress may direct, shall be guilty of piracy and felony on the high seas, and, on conviction thereof, shall suffer death without benefit of clergy; and Congress may, perhaps, go equally far with respect to foreigners who land slaves within the territory of the United States, in contravention of any regulation they may please to make.

"So much as to the powers of Congress. I desire that the world should know, I desire that those people in the gallery, about whom so much has been said, should know, that there is at least one member on this floor who believes that Congress have ample powers to do all they have asked respecting the African slave trade. Nor do I doubt that Congress will, whenever necessity or policy dictate the measure, exercise those powers. I believe that the importation of one cargo of slaves would go far toward inducing such action; but I believe, also, that this necessity is not likely to happen. The states, I think, will severally do what is right in the premises.

"If the question were, What will Congress do? not a member from the South is more ready than I to say,

Nothing. I think that as yet there is no necessity for <sup>CHAPTER</sup> acting. But the question being as to the powers of <sup>II.</sup> Congress, those powers, if expressed at all, should be 1790 fully expressed."

Jackson, who rose in reply to Scott, after laboring to establish the divine origin of slavery by quotations from Moses, and its moral and political rectitude by the example of the Greeks and Romans, addressed himself then to the constitutional question. "The gentleman trusted there was no trafficking in the Convention. What he calls trafficking I believe was necessary. In order that the Constitution might be made agreeable to all parties, interests were to be mutually given up. In suffering a bare majority of Congress to decide on laws relative to navigation, the South admitted what was injurious to them, in order to obtain security for their slave property; and without it I believe the Union would never have been completed. Break this tie, and you now dissolve it. Suppose Congress were to forbid the Eastern fishery, or to put restrictions upon it; would the Eastern States submit? Affect the Southern property, and gentlemen may assure themselves of the same tendency. The gentleman is willing to let this business rest till it appears what the states will do. His alternative is, if you will not abolish slavery, we will. He hoped the House would be cautious how they adopted this language, how they destroyed that Constitution which had been so happily established."

Smith of South Carolina wished to see an end of this disagreeable business, and had determined to say nothing more on the subject, because he lamented the waste of time already occasioned by it, and the ill humor it had produced among gentlemen heretofore accustomed to treat each other with politeness. But the observations made

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by the gentleman from Pennsylvania (Scott) required some answer. He agreed that Congress had no greater

1790. right to levy a duty of ten dollars on slaves imported than on freemen, for the Constitution made no difference. It spoke of migration as well as of importation. But this remark he could not reconcile with another made by the gentleman, that, as Congress had power to regulate trade, they might, therefore, regulate the trade in slaves; for, if there was nothing in the Constitution which held out the idea of slavery, how could these Africans be viewed in a light different from any other class of beings?

“But the gentleman had insisted that Congress might prohibit the importation of any species of persons of an inadmissible quality; as, for instance, persons affected with a pestilential disorder; and, as slavery was as bad as the plague, they might interdict the importation of slaves. The argument was new and ingenious, and, if well founded, would go much further; for, if Congress could interdict the bringing a plague into the country, they had equal authority to drive a plague out of it; and as the Quaker memorialists had been a great plague to them, and as sore a plague to the Southern States as any whatever, these Quakers, under this power, might be exterminated.

“The respectable name of Dr. Franklin had been mentioned as giving countenance to these memorials, one of which was signed by him as president of the abolition society. It was astonishing to see that gentleman's name to an application which called upon Congress, in explicit terms, to break a solemn compact to which he had himself been a party. The gentleman from Massachusetts (Gerry) had declared that it was the opinion of the select committee, of which he was a member, that the memorial from the Pennsylvania society asked Congress to violate

the Constitution. And it was no less astonishing that Dr. Franklin had taken the lead in a business which looked so much like a persecution of the Southern inhabitants, especially when he recollected the parable the doctor had written some time ago with a view to show the impropriety of one set of men persecuting others for a difference of opinion." CHAPTER II. 1790

Boudinot "agreed to the general doctrines of Scott, but could not go so far as to say that the clause in the Constitution relating to the importation or migration of such persons as the states now existing shall think proper to admit, did not include the case of negro slaves. Candor required him to acknowledge that this was the express design of the Constitution. He had been informed that the tax or duty of ten dollars was agreed to instead of five per cent. ad valorem, and that it was so expressly understood by all parties in the Convention. It was, therefore, the interest and duty of Congress to impose the tax, or it would not be doing justice to the states or equalizing the duties throughout the Union. The gentlemen in opposition were justifiable in supporting the interests of their constituents, but their warmth had been excessive. Yet even that warmth was not without excuse. It was an arduous task, in this enlightened age, to prove the legality of slavery. When gentlemen attempt to justify this unnatural traffic, or to prove the lawfulness of slavery, they ought to advert to the genius of our government and to the principles of the Revolution. 'If it were possible for men who exercise their reason to believe,' says the Declaration of 1775, setting forth the causes and necessity for taking up arms, 'that the divine Author of our existence intended a part of the human race to hold an absolute power in and an unbounded property over others, marked out by his infinite good-

CHAPTER II. ness and wisdom as the objects of a legal domination

never rightfully resistible, however severe and oppressive, 1790. the inhabitants of these colonies might at least require from the Parliament of Great Britain some evidence that this dreadful authority over them had been granted to that body.' By the Declaration of Independence in 1776, Congress declare 'these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights, and that among these are life, liberty, and the pursuit of happiness.' Such was the language of America in the day of her distress!

"But there was a wide difference between justifying the African slave trade and supporting a claim vested at the adoption of the Constitution and guaranteed by it; nor would he be understood as contending for any right in Congress to give freedom to those who are now held as slaves, or, at the present time, to prohibit the slave trade. It would be a piece of inhumanity to turn these unhappy people loose, to murder each other or to perish for want of the necessaries of life. He never was an advocate for conduct so extravagant."

After an elaborate vindication of the Quakers, Boudinot denied that the petition signed by Franklin asked any thing contrary to the Constitution. The request "was to go to the utmost verge of the Constitution," not to go beyond it.

The ardent Jackson was by no means satisfied with the distinction attempted to be set up between the African slave trade and the case of the slaves already in the country. "I am for none of these half-way consciences; if I was disposed to do any thing, I should be for total abolition. Let charity and humanity begin at home; let the gentlemen in the Northern States who own slaves

and advocate their cause, set the example of emancipation. Let them prove their own humanity; let them pull the beam out of their own eye previous to discovering the mote in their neighbor's. That is an argument that would speak for itself. Gentlemen have talked of our raising alarms; but it is at a reality, not at a bugbear. The whole tenor of the resolutions has been contrary to Southern interests; and manumission, emancipation, and abolition have been their intention. I give the gentleman from Pennsylvania (Scott) credit; I admit his candor; he has boldly spoken out. I wish the same might be done by other members, who appear to me to conceal their real designs under the specious pretext of concern for the interests of the Southern States."

Jackson's reiterated abuse of the Quakers, for which he made a sort of half apology, by remarking that he believed they cared very little about it, called up Williamson, who had just taken his seat from North Carolina, and who had been a member of the Federal Convention. One of his colleagues was Sevier, the late rebel governor of the transitory and now extinct State of Frankland. Williamson thought the time of Congress badly employed in passing abstract resolutions as to what they could or could not do, and still worse in discussing what appeared to be the general subject of debate, whether the Quakers were the worst or the best of all religious societies. As to their conduct in the present case, he believed they held themselves bound in conscience to bear a testimony against slavery. He revered all men who respect the dictates of conscience at the expense of time and money: such men are seldom bad members of society. "We, too, must regard the dictates of conscience; we are bound to support the Constitution, and to protect the property of our fellow-citizens; and we are expressly prohibited by

CHAPTER II. the Constitution from giving liberty to a single slave  
1790. That business remains with the individual states; it is not committed to Congress, who have no right to intermeddle with it." He was therefore opposed to all the resolutions.

After some further debate, in which the merits of the Quakers continued to hold a large place, the sixth resolution was agreed to. The seventh, pledging Congress to exert their full powers for the restriction of the slave trade—and, as it might also be understood, for the discountenancing of slavery—was struck out. The committee then rose, and reported the resolutions to the House.

March 23. The next day, as soon as the preliminary business had been disposed of, it was moved to take up this report. Ames, so eloquent formerly on the molasses duty, but silent hitherto throughout this debate, now expressed the opinion that the subject might rest at the stage it had reached. He regretted the time consumed, and the manner also in which the debate had been conducted. He reprobated the idea of a declaration of abstract propositions. Let the report lie on the files of the House, where it might be occasionally referred to.

Ames was highly complimented by Jackson, who wished that more of the members from the eastward had acted in a similar spirit. Madison thought the suggestion of Ames a good one, with this modification, that the report of the Committee of the Whole should be entered on the journals for the information of the public, and to quiet the fears of the South, by showing that Congress claimed no power to prohibit the importation of slaves before 1808, and no power of manumission at any time.

Burke "complained of this as an uncandid method of disposing of the business. He would rather it should

pass regularly through the forms of the House. It was <sup>CHAPTER II.</sup> smuggling the affair to let it rest here, as it deprived the people of the counsel of their Senate." Smith took the 1790. same ground. The precedents quoted of memorials entered on the journals were not applicable to the present question, which involved a discussion of the powers of Congress. On a question as to those powers, the Senate, composing one branch of the Legislature, should certainly be consulted. Both reports were now to be entered on the journals, without any declaration to show which had been approved and which rejected. They were precluded from having the yeas and nays on the report, and yet it would be called the act of the House. Madison contended that, as it was impossible to shut the door altogether upon this business, the method proposed was the most conciliatory, and the best adapted to the present situation of things. The motion finally prevailed, by a vote of twenty-nine to twenty-five, and the report was entered on the journal as follows :

"That the migration or importation of such persons as any of the states now existing shall think proper to admit can not be prohibited by Congress prior to the year 1808.

"That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them, in any of the states, it remaining with the several states alone to provide any regulations therein which humanity and true policy require.

"That Congress have authority to restrain the citizens of the United States from carrying on the African slave trade for the purpose of supplying foreigners with slaves, and of providing by proper regulations for the humane treatment, during their passage, of slaves imported by the said citizens into the said states admitting such importation.



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II

“That Congress have also authority to prohibit foreigners from fitting out vessels in any port of the United States for transporting persons from Africa to any foreign port.”

Such was the termination of this remarkable and very characteristic debate, the first of a series recurring from time to time down to the present day, and constituting, of late years, one of the chief staples of congressional discussion. The report of the select committee had been evidently intended to avoid any occasion for excitement or controversy. Though a certain power over the African slave trade had been claimed for Congress, the right of interfering with slavery as it existed in the states, or even of prohibiting the further importation of slaves prior to 1808, was expressly renounced. The fury, therefore, with which this report had been assailed, and the long and violent debate it had occasioned, were wholly unexpected. This attack, it is to be observed, came almost entirely from South Carolina and Georgia. “The South” spoken of in the debate must be understood as limited to those two states, with the addition, perhaps, of North Carolina, which still admitted the importation of slaves, burdened, however, with a considerable impost, upon the express ground, as stated in the act, that this traffic was of “evil consequence and highly impolitic.” A majority of the representatives from Maryland and Virginia evidently leaned to anti-slavery views—a sentiment since greatly modified in those states by the immense domestic slave trade which has sprung up within the last thirty years.

The extreme violence of the Southern members, whose policy it was—a policy ever since adhered to—to prevent Congress from taking any action of any sort hostile to slavery, did not fail of a certain effect. All the friends

of the funding system were highly alarmed at this new influx of bitter sectional feeling while that great question still remained unsettled. Though the majority in favor of the doctrines of the select committee, as to the power of Congress over the slave trade, was very decisive, yet they shrank from any attempt to give to that doctrine a practical effect. Indeed, the final disposition made of the report professed to have for its object not so much the vindication of the power of Congress as the appeasing the alarms of the South. The Quakers, however, and other opponents of the slave trade, acting, as they did, under the impulse of a strong moral sentiment, were not to be silenced or quieted by those prudential considerations which operated with such force on Ames and others.

Some further discussion of this question of slavery took place a few days after, on the consideration of a March 26 bill for accepting the North Carolina cession and erecting a government for the ceded territory. One of the conditions of the cession was that Congress should make no regulation tending to the emancipation of slaves. It would be curious to know what was said upon that subject, but of that debate no report exists. The act, as passed, erected the ceded district into the TERRITORY SOUTH OF THE OHIO, to stand upon the same footing, in every respect, except the exclusion of slavery, with the Territory northwest of the Ohio. Of this new territory, coincident with the present State of Tennessee, and of which William Blount was presently appointed governor, the greater part, at this time, was in possession of the Indians. To only two detached portions had the Indian title been extinguished; one of four or five thousand square miles (the late State of Frankland), the northeast corner of the present State of Tennessee; the

CHAPTER II. other an oblong tract of some two thousand square miles, around the town of Nashville, on both sides of the Cumberland River. 1790.

March 29. The funding resolutions coming up in the House, the first and second clauses, declaring that adequate provision ought to be made for the domestic as well as the foreign debt, passed without a division. The third clause, placing the over-due interest on the same level with the principal, was also agreed to by a considerable majority. When the fourth clause was reached—that relating to the assumption of the state debts—a recommitment being moved, it was carried by a majority of two, the position of parties on that question having been reversed by the arrival of the North Carolina delegation. The remaining clauses were also recommitted, and the debate was renewed with as much pertinacity as ever. Bland, the only Virginian who supported the assumption—and he died before the matter was finally settled—in giving his reasons for differing from his colleagues, made some interesting statements. The debt of Virginia amounted to \$3,300,000, and the interest had hitherto been paid by the import duties, certificates of interest being receivable in payment. But that was now at an end, and the whole charge, such being the policy now pursued by the Virginia Legislature in matters of taxation, would fall upon the land and negroes. Since the commencement of the Revolutionary war, enormous emigrations had taken place from Virginia, and were still going on. Nine tenths of the people of Kentucky had emigrated from that state, and more than half of Georgia had been peopled in the same way. The Territory south of the Ohio, the cession of which had just been accepted, had been chiefly peopled from Virginia. Large numbers had emigrated to other states. Upon

those left behind the payment of the whole debt would fall, though lands, from the great quantity thrown into the market by emigrants, had declined more than sixty per cent. in value. The tide-water counties, in which the debt was principally held, had suffered extremely during the war from the ravages of the enemy, having lost not less than seven thousand negroes. To these losses were to be added claims for British debts anterior to the war. Yet upon these same counties would the burden of taxation chiefly fall; for, though the weight of wealth lay toward the seaboard, the western counties preponderated in political power.

In favor of assumption, Burke dwelt at length on the sufferings, losses, and merits of South Carolina. The arguments already urged in its favor were recapitulated by Lawrence, Goodhue, Smith of South Carolina, Hartley, Gerry, Wadsworth, Vining, Sherman, Clymer, and Fitzsimmons. The other side was supported by Jackson, Williamson, Page, White, and Moore, of whom the last assigned as a principal reason why Virginia was opposed to the assumption, that the certificates of the state debt had passed at a great discount into the hands of the merchants, and that, under the circumstances, the planters thought it unreasonable to be taxed to pay the full amount. Sherman summed up for the assumptionists, to whom White replied, not without allusions to what he understood as threats thrown out during the debate, that if the state debts were not assumed, the Eastern States would secede from the Union. The question being taken, the assumption was lost, twenty-nine to thirty-one, a decision which drew out from Sedgwick very energetic remonstrances as to the political dangers thereby incurred—remonstrances to which Jackson replied in a tone just as lofty. Gerry moved to refer the

CHAPTER II. matter to a committee of one from each state, but this motion finally failed. Instead of it, a bill was ordered to 1790. be brought in, founded on Madison's resolution already April 20. mentioned, for expediting and completing the settlement between the Union and the states.

Pending the discussion of the remaining resolutions as to the terms on which the debt should be funded, the question of the state debts was repeatedly reintroduced. Sherman suggested the assumption of certain specific sums for each state, amounting in the whole to nineteen millions three hundred thousand dollars, substantially the same plan adopted in the end. This proposition, and, indeed, the whole policy of assumption, was opposed in an elaborate speech by Madison, who had hitherto refrained from any very active part on this question. Provoked at the pretensions set up by Madison and others of extraordinary efforts on the part of Virginia during the war, Ames moved for a call upon the War Department for the number of men furnished by each state to the Revolutionary armies, a motion vehemently opposed, but carried by a small majority.

After an interval employed in other business, the May 24. Funding Bill being under consideration in Committee of the Whole, Gerry proposed an amendment, very similar to Sherman's, for the assumption of certain specified portions of the state debts. The advocates of assumption took this occasion to reply to the arguments urged by Madison at the end of the former debate, and also to show, from the answer to Ames's call for information, that the alleged superiority of revolutionary exertions on the part of Virginia was by no means a fact. It appeared, indeed, that Massachusetts had furnished more men to the Continental army than all the states together from Delaware southward. Any direct question on Ger

ry's motion was avoided by the rising of the committee; CHAPTER II  
and the bill being reported to the House with an amend-  
ment for funding the outstanding Continental money at 1790.  
the rate of seventy-five for one, was passed and sent to June 2  
the Senate.

The president had communicated, the day before, in a message to both houses, the accession of the State of Rhode Island to the new federal system. By the casting vote of Governor Collins in the Board of Assistants, a bill calling a state convention, to take into consideration the Federal Constitution, had passed the Rhode Island Assembly early in the year. Along with notice Jan. 21 of this act, an urgent request had been sent to Congress for a further suspension, as to Rhode Island shipping, of the extra duties on foreign vessels. When the Convention met at the time appointed, the anti-Federal members found themselves a majority; but not daring to venture on a positive rejection of the Constitution, they procrastinated matters by voting an adjournment. The annual election occurring in the interval, Collins was dropped by the anti-Federalists, and Arthur Fenner chosen governor in his place. But the ruling majority felt very doubtful and uneasy. The secession of the two commercial towns of Providence and Newport, indeed the partition of the whole state between Massachusetts and Connecticut, was openly talked of, as well in Rhode Island itself as in the neighboring states. As a further stimulus, the federal Senate passed a bill, and sent it May 16 down to the House, prohibiting commercial intercourse with the recusant state, and authorizing a demand upon her for her quota toward the Continental debt. On the reassembling of the Rhode Island Convention, another attempt at procrastination was made by moving a further adjournment. This, however, failed; and the Consti.

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 tutation was at length ratified by a majority of two votes, not, however, without previously setting forth, besides 1790. twenty-one proposed amendments to the body of the instrument, a Bill of Rights, in eighteen articles, declared, like the similar bill set forth by the New York ratifying Convention, consistent with the Constitution, and incapable of being abridged or violated. Thus were all the states of the original confederacy again reunited, by their own free consent, under the Federal Constitution. The Rhode Island members presently took their seats in Congress; immediately after the adjournment, the president paid a visit to that state, where he was welcomed with no less enthusiasm than he had been in other parts of New England.

Though defeated in the House, the friends of the assumption of the state debts did not despair; and, indeed, means were soon found to connect this question with another, in which local interests and jealousies were not less involved—that of a permanent seat for the federal government. By a combination at the last session between the members from the Eastern and Middle States, a bill, as we have seen, had very nearly passed, though finally defeated on a trifling matter of difference between the two houses, for fixing the permanent seat of government on the Delaware near Philadelphia, Congress to continue to sit at New York till the necessary buildings could be erected. At the present session new combinations had been formed. The Pennsylvanians seemed unwilling to risk the temporary residence at New York, and by their votes, and those of the Southern members, May 31. a resolution had been carried in the House for holding the next session of Congress at Philadelphia. The Senate June 8. having rejected this resolution, another was sent to them for holding the next session at Baltimore; but they

were not disposed to sanction a removal from New York, <sup>CHAPTER II.</sup> unless the whole question could be settled at the same time. A bill had been introduced for that purpose, but 1790. any agreement as to the precise spot was found very difficult.

The states most interested in having the federal capital on the Potomac were Virginia and Maryland, and, as a very rapid growth seems to have been generally anticipated for the federal city, this interest was particularly strong in that part of these two states immediately bordering on the river. It occurred to Robert Morris and others, strong advocates for the assumption, that, if gratified as to the seat of the federal capital, some of the Virginia and Maryland members might be willing to yield the other point, and a change of two or three votes would be sufficient to change the majority in the House. Jefferson complains in his *Ana* that, having but lately arrived at New York—he had, in fact, arrived and entered upon the duties of his office in the midst of the slavery debate—he was “most ignorantly and innocently made to hold the candle” to this intrigue, “being duped into it,” as he alleges, “by the Secretary of the Treasury, and made a tool of for forwarding his schemes, not then sufficiently understood.” Hamilton, it seems, appealed to Jefferson for his aid and co-operation as a member of the cabinet in calming an excitement, and bringing about the settlement of a question which seemed to threaten the very existence of the federal government. Jefferson proposed to Hamilton to dine with him the next day, on which occasion he would invite another friend or two, to see whether it “were not possible, by some mutual sacrifices of opinion, to form a compromise to save the Union.” At this dinner-party the subject was discussed, Jefferson, as he assures us, taking “no part but



CHAPTER II. an exhortatory one ;" and finally it was agreed that, for the sake of the Union, White and Lee, two of the Virginia members, should change their votes on the question of assumption ; but by way of anodyne to the excitement which this change might produce, the seat of the federal government, after remaining for the next ten years at Philadelphia, was to be permanently fixed on the Potomac. From their influence with the Eastern and Northern members, Hamilton and Morris undertook to carry out that part of the bargain.

The bill in relation to the seat of government having, in accordance, it would seem, with this arrangement, been made to correspond to the agreement above recited, was passed by the Senate, and sent to the House. But, as the secret of the bargain of which it formed a part had been communicated to only a few of the Northern members, just sufficient to secure its passage, it there encountered a very violent opposition. The yeas and nays were called upon it no less than thirteen times, and it finally  
 July 10 passed only by the close vote of thirty-two to twenty-nine.

By this act the permanent seat of the federal government was established on the Potomac, the particular spot, within certain limits, being left to the discretion of the president, who was to appoint commissioners to fix the location, and to erect suitable public buildings for the accommodation of Congress, the president, and the several departments. In their eagerness to fix the seat of government in their own neighborhood, Maryland and Virginia, as well as Pennsylvania and New Jersey, had held out very liberal offers ; and it was one of the arguments in favor of the present act, that it provided for establishing a capital and erecting all the necessary public buildings without any cost to the nation—an idea kept

up for several years, but which proved in the end to be a very mistaken one. Instead of an appropriation to defray the expenses of the purchase of land and of erecting the necessary buildings, the president was authorized and requested to accept grants of money for that purpose. Congress and the government were to remove to this new city in December, 1800. Meanwhile, commencing with the ensuing December, the seat of government was to be at Philadelphia.

This side of the bargain thus provided for, the Senate, among numerous other amendments to the Funding Bill, inserted a provision, founded on Sherman's suggestion in the House, assuming certain specified amounts in the certificates of the debts of the different states. Not only was this specification more satisfactory to many than a general assumption of the whole mass of the state debts, but it admitted of modifications as to particular states, by which a number of wavering votes might be fixed, and popular opinion be also conciliated. The bill, thus amended, passed the Senate, fourteen to twelve: Massachusetts, Connecticut, New York, New Jersey, and South Carolina, unanimous for it; New Hampshire, Pennsylvania, Delaware, and Maryland, divided; Rhode Island, Virginia, North Carolina, and Georgia, unanimous against it.

By the time the bill came back to the House with this new provision in it, the subject had been pretty well exhausted. The nature of the compromise entered into, and that votes enough were secured in the House to insure the passage of the bill, seem now to have been generally understood. But it was not suffered to pass without a warm debate. Jackson was the chief speaker for the anti-assumptionists; the other side was maintained by Smith of South Carolina, Gerry, and Sherman

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The assumption clause was sustained by a vote of thirty-four to twenty-eight; but several points of difference between the two houses, as to the terms on which the debt should be funded, delayed the final passage of the bill; nor were these questions arranged without a committee of conference. They related chiefly to the interest to be allowed on such part of the new debt as might be subscribed in the interest of the old one; to the amount of the deferred stock; the period at which interest upon it was to commence; and the rights of the United States as to redemption; upon all which points the House was inclined to go beyond the Senate in liberality to the public creditors.

July 24. 1790. The act, as finally passed, authorized the president to borrow twelve millions of dollars, if so much were found necessary, for discharging the arrears of interest and the over-due installments of the foreign debt, and for paying off the whole of that debt, could it be effected on advantageous terms; the money thus borrowed to be reimbursable within fifteen years. A new loan was also to be opened, payable in certificates of the domestic debt at their par value, and in Continental bills of credit, at the rate of one hundred for one. For subscriptions in the interest of the domestic debt, certificates were to issue to the full amount, redeemable at the pleasure of the government, and bearing interest at the rate of three per cent., the interest to be paid quarterly, and to commence with the first day of January, 1791; all interest becoming due on Continental certificates up to that time to be funded as above. Subscriptions in the principal of the domestic debt were to bear interest at six per cent.; but upon one third of the amount, known as deferred stock, the interest was not to commence till 1800. As a compensation to the holders, this six per cent. stock was not

to be redeemable at a faster rate than eight dollars upon the hundred annually, including the annual interest. It <sup>CHAPTER</sup><sub>II</sub> was left to the option of the Continental creditors to sub- 1790 scribe or not to this new loan. If they did not subscribe, they would still be entitled, for the year 1791, to the same amount of interest payable to subscribers. But there was this argument in favor of subscription—the act made a permanent provision for the interest of the new loan, whereas the holders of certificates would be dependent on annual votes.

Besides these provisions for the Continental debt, the act authorized an additional loan, payable in certificates of the state debts, to the amount of \$21,500,000, and distributed among the states as follows: Massachusetts and South Carolina, \$4,000,000 each; Virginia, \$3,500,000; North Carolina, \$2,400,000; Pennsylvania, \$2,200,000; Connecticut, \$1,600,000; New York, \$1,200,000; New Jersey and Maryland, \$800,000 each; New Hampshire and Georgia, \$300,000 each; Rhode Island and Delaware, \$200,000 each; but no certificates were to be received except such as had been issued for services or supplies during the late war. In case the subscriptions for any state exceeded the amount allowed, there was to be a pro rata distribution among the subscribers. If the subscriptions fell short—and the allowance, in several cases, was known to exceed the whole amount of the state debt—the state itself was to receive interest on the balance until the Revolutionary accounts between the states and the Union were finally settled; and in case a balance were found due from the Union, till that balance were paid or secured. As to interest and payment, this loan differed somewhat from that for the Continental debt. The over-due interest, to be reckoned to the end of the year 1791, was assumed

CHAPTER II. to constitute one third of the whole subscription, so that  
one third of the entire amount was to be a three per  
1790. cent. stock. One third of the remainder was to be deferred stock, bearing an interest at six per cent., to commence after 1800; the balance was to bear an interest of six per cent., to commence at the beginning of the year 1792. For superintending these loans, and for the general management of the public debt, the old Continental system was continued of a loan-office commissioner in each state, with salaries varying from \$600 to \$1500 per annum.

For payment of the interest and principal on the public debt—the foreign debt having the preference, and then the Continental loan—a pledge was made of the income of the existing tonnage and import duties, after an annual deduction of \$600,000 for current expenses. This pledge repealed the limitation inserted into the tariff act of the last session, and included, also, certain additional duties specified below. The faith of the United States was further pledged to make up all deficiencies of interest. The proceeds of the sales of Western lands then belonging to, or which might belong to, the United States, were specially and exclusively appropriated toward the discharge of the principal; but several years elapsed before any income was received from that source.

To furnish additional means toward fulfilling the obligations thus assumed, the tariff of the last session was revised, and additional duties imposed. By the revised act, wines were to pay from twenty to thirty-five cents per gallon; distilled spirits, from twelve to twenty-five cents per gallon, according to the proof; molasses, three cents; teas, from ten to thirty cents per pound, with a corresponding increase on importations from Europe or in foreign vessels; coffee, four cents; sugars, one and a

half to five cents; pepper, six cents; pimento, four cents, CHAPTER  
 snuff, ten cents; indigo, twenty-five cents; unwrought II.  
 steel, seventy-five cents the hundred weight; cables and 1790.  
 tarred cordage, one dollar; untarred cordage and yarn,  
 one dollar and fifty cents; twine and pack-thread, three  
 dollars; salt, twelve cents per bushel; coal, three cents;  
 carriages of all sorts, fifteen per cent. ad valorem; glass  
 and china-ware, twelve and a half per cent. ad valorem;  
 marble, slate, brick, tiles, and all utensils of marble and  
 slate, paper of all sorts, pictures, prints, clocks, watches,  
 spices not before enumerated, fruits, preserves, pickles,  
 oil, and ground mustard, ten per cent. ad valorem; me-  
 dicinal drugs, except dye-stuffs, carpets, velvets, satins,  
 and other silk goods, cambrics, muslins, lawns, laces,  
 gauzes, chintzes, colored calicoes, and nankeens, seven  
 and a half per cent. ad valorem. On other articles the  
 duties remained as by the former tariff, with exception  
 of the following, added to the free list: bullion, plaster  
 of Paris, the sea-stores of ships, the clothes, books, tools,  
 and furniture of immigrants, philosophical apparatus im-  
 ported for seminaries of learning, goods designed to be  
 re-exported in the same vessel, and all goods of the growth  
 or production of the United States. The discount of ten  
 per cent. on the duties of goods imported in American  
 vessels was discontinued, being replaced by an additional  
 ten per cent. when the importation was in foreign vessels.

The success which had attended the collection of the  
 duties imposed at the former session had greatly in-  
 creased the confidence of Congress in this source of rev-  
 enue. The Senate, which, through fear of smuggling,  
 had, at the first session, cut down the duties imposed  
 by the House, now led off in the other direction. The  
 bill, as it passed the House, proposed only a general in-  
 crease of one third in the then existing duties, with a

CHAPTER II. special increase on some particular articles ; but in the Senate this bill was completely remodeled, the old act 1790. being repealed, and a new one substituted, including the increased duties above stated. Gerry, Sedgwick, and Ames zealously opposed this accumulation of taxes on commerce alone, and renewed the cry of the danger of smuggling. Sherman supported the amendments of the Senate. "As the House was opposed to an excise, having already thrown out one bill because it contained a provision of that sort, and still more so to direct taxes, an increase of the tariff was absolutely necessary. The alleged danger of smuggling was an insulting imputation on the American mercantile character, and gentlemen ought to take care lest, in throwing out suggestions of the probability of smuggling, they became thereby encouragers of it." As a safeguard, however, against this danger, the Collection Act was revised, and new and more stringent provisions were added. The new tariff, it was supposed, would furnish an annual income sufficient, besides discharging the current expenses, to meet the interest on the original federal debt. As interest on the assumed debt would not begin to be payable till 1792, provision for that was deferred till the next session.

For the final settlement of accounts between the states and the Union, the federal ratio, as it might be determined under an act for a census already passed, was adopted as the rule for the apportionment of quotas to the several states ; and for bringing the settlement to an immediate conclusion, a new board of three commissioners was constituted, with full power to liquidate and allow all unsettled claims on general principles of equity, although such claims might not be sanctioned by resolves of the Continental Congress, or supported by regular vouchers. It was further provided (and this was the

important matter) that such states as might be found, CHAPTER II. on this settlement, to be in advance to the Union, should be entitled to have the balances due them funded on the 1790. same terms with the assumed debt, except that these balances should not be transferable.

As, by the terms of the Funding Act, the interest on the domestic debt for the current year was to be converted into principal, a considerable unappropriated sum of money would accumulate in the treasury. Prudence would have suggested that a balance of cash in hand would be exceedingly convenient, if not absolutely necessary, for the ordinary operations of the treasury department. Congress, however, provided that all the surplus in the treasury on the last day of the following December, after payment of the appropriations of the present session, should be applied to the reduction of the public debt; this sum, together with two millions more which the president was authorized to borrow, to constitute a fund, to be employed, under the management of a board composed of the Chief Justice, the President of the Senate, the Secretary of State, the Secretary of the Treasury, and the Attorney General, in the purchase of securities of the United States at their market value, if not above par. These securities, so purchased, were to be vested in the board, and the interest thereon, by the provision of a subsequent act, was to be applied to the purchase of further securities, with a reserve, however, toward the discharge of the borrowed two millions, principal and interest. Such was the sinking fund as originally established, though not yet known by that name. One object in establishing this sinking fund was to raise the stock in the market, in order to prevent transfers to Europe at depreciated rates.

Besides these acts, more immediately connected with



CHAPTER II. the funding system, several other laws were passed, of great interest and importance.

1790. An act providing a uniform rule of naturalization authorized all courts of record to entertain the application of "alien free white persons" who had resided within the United States for two years, and on proof of good character, and their taking an oath or affirmation to support the Constitution, to admit such persons as citizens; but no person who had been disfranchised by any state, under any laws passed during the Revolution, was to be readmitted as a citizen, except by a legislative act of the state to which he had formerly belonged. The method of procedure above prescribed for the process of naturalization has ever since been preserved, the power of admitting new citizens being still possessed by all courts of record; but the necessary preliminary residence, as will presently appear, has been extended, and a declaration required, preliminary to the actual naturalization, of an intention to become a citizen.

An act "to promote the useful arts" secured to citizens of the United States, the inventors of new machines or processes, or of improvements upon old ones, the right to enjoy, under letters patent, to be issued by a board, consisting of the secretaries of State and War and the Attorney General, the sole and exclusive use of their inventions during a period of fourteen years. Two years after, the sole management of matters relating to patents was intrusted to the Secretary of State. In 1836, the growing extent of this business led to the appointment of a special officer, subordinate to that department, called Commissioner of Patents, to whom was given authority, in cases which might seem to merit such indulgence, to give an extension to patents for seven additional years. This office of Commissioner of Patents

now constitutes one of the bureaus of the recently-established Home Department. CHAPTER  
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An act "for the encouragement of learning" secured 1790. to authors, "residents in the United States," a copy-right for fourteen years, and if the author were living at the end of that period, for an additional term of fourteen years. By an act passed in 1834, the original term has been doubled, and the benefit of a renewal secured to the wife and children of the author.

An act "for the government and regulation of seamen," based on the ancient maritime usages of the country, and still in force, with some modifications, required a written contract to be entered into specifying the voyage and the rate of wages. Without such contract, the terms of which were to be rigorously enforced, the master had no hold upon his men, and was liable to pay them, for any services rendered, the highest current rate of wages. Mariners who had once signed the shipping articles, as this contract was called, absenting themselves or deserting, were not only liable to forfeiture of their pay, but might be taken on board by force and compelled to serve. No native mariner could be left abroad under severe penalties. The ship itself was made liable for the wages of the seamen. Every vessel was required to have on board a medicine chest, and a certain supply of water and provisions. The unwritten maritime law of the United States gave and still gives to the master a very extensive and almost despotic authority, liable in many cases to great abuse, but thought to be essential, since the safety of the ship and crew may often depend on instantaneous and unhesitating obedience to orders. In cases of insubordination or of insolence, the master possesses the right to punish by confinement; and it is only by a very recent act of Congress (1850) that the use of

CHAPTER II. the lash on shipboard has been abolished as well in merchant vessels as in ships of war.

1790. An act "to regulate trade and intercourse with the Indian tribes," founded also, for the most part, on the dictates of former experience, and the permanent basis of the policy of the United States on this subject, excluded all persons from traffic with the Indians except under license from the president. No sales of lands by the Indians were to be valid unless made at some public treaty, held under authority from the United States. All offenses against the persons and property of Indians were to be prosecuted and punished in the same way as similar offenses against white men.

An act "for the punishment of crimes against the United States," still the basis of the federal criminal law, inflicted the penalty of death, by hanging, upon treason, murder, piracy, and forgery of the securities of the United States. In the latter case, the penalty of death was strenuously resisted during the discussion of the act, and fine and imprisonment have since been substituted. In capital cases, prisoners were to have a copy of the indictment, with a list of the jurymen, and were, in all cases, to be allowed the assistance of counsel, and to have the aid of the process of the court for summoning their witnesses; prisoners standing mute and refusing to plead were to be considered as pleading not guilty; in cases of conviction, no forfeiture of estates was to ensue, nor corruption of blood: very great improvements upon the harsh and cruel policy of the old common law. Misprision of treason, in other words, knowledge of that offense and concealment of it, maiming, and the stealing or falsifying of records, were to be punished by seven years' imprisonment, and in the latter case by a public whipping also, not exceeding thirty-nine lashes; or a fine

of \$5000 might be imposed as a substitute for these CHAPTER II. punishments. Misprision of other capital crimes besides 1790 treason, being accessory to them after the fact, manslaughter, perjury, correspondence with pirates, conspiracy to rob or run away with vessels, violation of safe-conducts, or assault on the person of ambassadors or other public ministers, were punishable by three years' imprisonment, and in case of perjury, by standing in the pillory and incapacity to testify. In most of these cases, also, fines were added of from \$500 to \$1000. Four-fold restoration, with a public whipping not exceeding thirty-nine stripes, was the penalty for simple larceny or embezzlement, half the amount to go to the owner, the other half to the informer. The giving or receiving bribes was punishable with fine and imprisonment at the discretion of the court. Except in case of fugitives from justice, prosecutions for treason under this act must be commenced within three years after the committing of the offense, and prosecutions for other crimes within two years. A sort of undefined jealousy of federal authority led, it is probable, to this limitation, still in force, though unknown to the common law or to any of the state codes.

An act "providing the means of intercourse with foreign nations" fixed the salaries of ministers plenipotentiary at \$9000, of *chargés des affaires* at half that sum. The Senate wished to vote a general sum for the expenses of foreign intercourse, leaving the salaries discretionary with the president, but to this the House would not agree. Yet a discrimination in the sums allowed would seem to be called for by the difference of expenses at different courts. To the first ministers sent to Europe the Continental Congress had guaranteed the payment of their expenses, with an additional compensation for their time and trouble. The allowance actually made

CHAPTER II. had been fixed at first at \$11,111 annually. After the peace, a resolution of the Continental Congress had reduced this salary to \$9000. It was in consequence of this reduction, so Jefferson states, that Franklin had insisted on his recall, that amount being insufficient to pay his expenses. An allowance for outfit made by this act was probably a suggestion of Jefferson's, who had insisted upon it in his own case as necessary and proper.

An "act for regulating the military establishment" provided for a standing force of 1216 rank and file, to be organized into four battalions, three of infantry and one of artillery, the three infantry battalions to constitute a regiment.

The Tonnage Bill was remodeled, but the duties remained the same. Madison made another attempt to impose discriminating tonnage duties on the vessels of nations not in treaty with us; but, though he carried this proposition through the House, it was again defeated in the Senate. A difference between the two houses as to the powers to be given to the Postmaster General defeated a bill for reorganizing that department. The Senate wished to give the Postmaster General a discretionary authority in the establishment of post-roads, but to this the House would not agree.

The appropriations for the service of the year amounted to \$723,399 68: viz., civil list, \$141,492 73; foreign intercourse, \$40,000; military establishment, \$155,537 72; Revolutionary pensions, \$96,979 72; contingencies, \$10,000; light-houses, \$147,139 54; old debts, \$232,219 97. Among the private bills passed was one granting Baron Steuben an annuity of \$2000 in consideration of his services. After a laborious session of seven months, Congress finally adjourned to meet again in December.

## CHAPTER III.

NEW CONSTITUTIONS OF GEORGIA, SOUTH CAROLINA, AND PENNSYLVANIA. AMERICAN THEATRICALS. INDIAN AFFAIRS. THIRD SESSION OF THE FIRST CONGRESS. THE EXCISE. NATIONAL BANK. VERMONT AND KENTUCKY ADMITTED INTO THE UNION. CONSTITUTION OF VERMONT. BENEFICIAL OPERATION OF THE NEW SYSTEM OF FINANCE.

**W**HILE the national Legislature had been employed in putting the new federal government into operation, constitutional changes of considerable importance had been made in several of the states. In this business Georgia took the lead, a Constitutional Convention having been in session simultaneously with the first session of Congress. CHAPTER  
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October.

The effect of the Federal Constitution as a model, or of those political views which had determined the general cast of that instrument, was conspicuous in the new Constitution of Georgia. The legislative power, instead of being vested, as before, in a single assembly, was to be exercised jointly by a Senate and House of Representatives, the senators to be chosen for three years, one by each of the eleven counties. They were required to be twenty-eight years of age, and to be qualified, like the representatives under the first Constitution, by the possession of two hundred and fifty acres of land, or other property to the value of \$1200. The qualification of members of the House, which body was to consist of thirty-five members, was the possession of two hundred acres of land, or other property to the value of \$700

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No clergyman of any sect could be a member of either house. The test of Protestantism required by the first 1789. Constitution was dispensed with. The elective franchise was extended to all male tax-paying resident free-men, the former property qualification being dropped.

The governor was to be chosen biennially, the House to nominate three persons as candidates, one of whom the Senate was to select; the candidates to be thirty years of age, the owners of five hundred acres of land within the state, and of other property to the value of \$4444 44. The powers of the governor were considerably enlarged. He was to possess the pardoning power, except in cases of treason, the appointment of all militia officers, and a veto on all laws not repassed by a two thirds vote. The judges and other civil officers were to be chosen by the Assembly in the same way with the governor, the judges for three years. The same system of county courts was continued as before, to be held by the chief justice of the state, assisted by three local judges for each county; but the Assembly was authorized to constitute out of these judges a Court of Errors and Appeals, empowered to grant new trials.

This Constitution, like the former one, prohibited entails, and provided, when there was no will, for an equal distribution of all estates, landed as well as personal, among all the children. All persons were to enjoy the free exercise of religion without being obliged to contribute to the support of any religious profession but their own.

Georgia was rapidly increasing in population, and as further constitutional changes might soon become necessary, it was provided that a convention of three persons from each county should meet for that purpose at the end of five years.

The part of Georgia to which, at this time, the Indian title had been extinguished, and which had begun to be occupied by settlers, was limited to a tract along the Savannah for a considerable distance above Augusta, and extending westward to the Altamaha and its eastern branch the Oconee. The Indians had also ceded the seacoast between the Altamaha and St. Mary's, but this tract was almost destitute of inhabitants. By far the larger part of what now constitutes the state was in possession of the Creeks and Cherokees. The Georgians, however, claimed in sovereignty, with exclusive right of pre-emption from the Indians, not only the whole of the present state, but also the district west of the Chattahoochee, out of which the two states of Alabama and Mississippi have since been constituted.

The migration from the older districts to new lands, which prevailing pecuniary embarrassments had occasioned, had given rise throughout the United States to a great spirit of land speculation. The very first Legislature of Georgia, which met under the new Constitution, undertook to sell out, to three private companies, the pre-emption right to tracts of land beyond the Chattahoochee—five millions of acres to the South Carolina Yazoo Company for the sum of \$66,964, seven millions of acres to the Virginia Yazoo Company for \$93,742, and three millions and a half of acres for \$46,875, to the Tennessee Yazoo Company. It was one of the conditions of the sale that the money should be paid within two years; but, as the companies insisted upon paying, not in cash, but in the depreciated Georgia paper, a succeeding Legislature took advantage of that circumstance to declare the bargain at an end. All the purchasers did not assent to this view; but the controversy upon this subject was quite overshadowed by another, which



CHAPTER III. sprang up a few years later, growing out of another sale of these same lands to other companies, and giving rise  
 1789. to the more famous Yazoo claims, of which we shall have occasion hereafter to speak.

The new Legislature fixed the seat of government at Louisville, a new town west of Augusta, and pretty nearly a central point to the then inhabited territory.

The Legislature of 1784, at the instance of Baldwin and Milledge, both distinguished in the history of the state, had granted forty thousand acres of wild lands toward the endowment of a college, and the next year a charter had been granted, and a board of trustees organized. But this land was situated on the northwestern frontier, and first the danger of Indian hostilities, and afterward the difficulty of disposing of the lands except by sale, which the charter prohibited, kept the fund for several years unavailable. At a later period, on the basis of this fund, the University of Georgia was organized at Athens.

1790. The example of Georgia in the adoption of a new Constitution was followed the next year by South Carolina. The first and second Constitutions of that state, those of 1776 and 1778, had been merely acts, the first of a Provincial Congress, the second of the State Assembly. The Constitution now formed, the one still in force, though since amended in some unimportant particulars, was the work of a Convention specially called for that  
 June. purpose, which met at Columbia, a new town then recently laid out, near the center of the state, and adopted the preceding year as the seat of the state government.

The right of suffrage was given, as in Georgia, to all free white tax-paying citizens, and even the necessity of paying taxes has since been dispensed with. In those states in which slavery prevails, the mere possession of

freedom alone constitutes for the white man a sufficient distinction, and still leaves the number of electors comparatively small, if contrasted with the total population. 1790.

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But, notwithstanding this show of liberality in relation to the right of voting, it was wealth, not numbers, that determined, and still determines in South Carolina, the balance of political power. The old election districts, forty-three in number, were continued as before, consisting in the lower part of the state of the former parishes; but the hundred and twenty-four members, biennially elected to compose the Lower House of Assembly, were distributed among these districts with such regard to their respective wealth, that a decided majority of the House was, and still is, returned by a decided minority of the free white inhabitants. To be eligible, the candidate must be a free white man, three years a citizen of the state, and legally seized and possessed in his own right "of a settled freehold estate of five hundred acres of land and ten negroes, or of a real estate of the value of six hundred and sixty-six dollars and sixty-six cents clear of debt;" or if a non-resident in the district, his estate must be of the value of two thousand two hundred and twenty-two dollars. These provisions, at least the property qualification in the case of residents, had been contained, or implied rather, in the two former Constitutions; but instead of any open mention of the possession of slaves, those Constitutions had merely referred to the old colonial Election Act, by which that qualification had first been established.

The Senate was to consist of thirty-six members, chosen by thirty-four districts, two of the districts choosing two members each. These districts were generally the same with the representative districts, but the number was diminished by the union in several cases of two

CHAPTER III. or more of the poorer ones as a single senatorial district.

At present the number of senators is forty-three, one being allowed to each representative district; but, as in 1790. case of the House, a minority of the whole number of electors chooses a majority of the senators. Elected for four years, the senators are divided into two classes, one half going out biennially. Every senator must be a free white man, thirty years of age, a citizen of the state for five years, and possessing a settled freehold estate of the value of one thousand three hundred and thirty-two dollars and thirty-two cents, or four thousand four hundred and forty-four dollars and forty-four cents in case of a non-residence in the district.

The governor and lieutenant governor, chosen by joint ballot of the Legislature for two years, must be thirty years of age, ten years citizens and residents, and possessed in their own rights of settled estates of the value of six thousand six hundred and sixty-six dollars and sixty-six cents clear of debt. They could hold office only two years out of six; yet the power of the governor was limited to the command of the militia, the calling of extra sessions of the Legislature, the granting of reprieves and pardons, and the remitting of fines and forfeitures. The choice of judges, and all other civil officers, was vested in the Legislature in joint ballot, and to that body, also, entire control was given over the constitution of the judiciary.

A carefully-limited Bill of Rights, in six short articles, secured trial by jury and liberty of the press, and guarded against ex post facto laws and laws violating the obligation of contracts. All power is declared to be originally vested in the people, but nothing is said about the natural equality of mankind.

All the religious tests, and the provisions for an estab.

lished church, contained in the Constitution of 1778, CHAPTER III. were now dropped, the "free exercise and enjoyment of religious profession and worship" being secured to "all mankind;" but this liberty was not to justify "acts of licentiousness or practices inconsistent with the peace and safety of the state." Clergymen, being "by their profession dedicated to the service of God and the cure of souls," were excluded from seats in the Legislature, or from holding the offices of governor or lieutenant governor. The rights of primogeniture were abolished, and an equal distribution was directed of the lands of intestates among all the children or next of kin. Amendments might be made by a convention, in the call of which two thirds of both branches of the Legislature should concur; or by acts passed by like majorities of two successive Legislatures, the proposed amendments being published for three months in the interval.

Though this Constitution contained some concessions to the growing spirit of political liberality, it still contrived to secure, under democratic forms, the complete control of the affairs of the state to a select minority, to whom superior wealth and intelligence might have given advantage enough without these legal provisions in their favor. It also had the same fault which Jefferson imputed to the Constitution of Virginia. There was no balance or distribution of powers; but the whole political authority of the state, even to the extent of making alterations in the Constitution, was concentrated in the hands of the Assembly, who held the executive and judicial departments in complete subjection, thus constituting what Jefferson denounced in the case of Virginia as little better than "an elective despotism."

Pennsylvania, in her first Constitution, formed in 1776, had adopted the policy of a single legislative as-

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semblely and of a plural executive, the nominal chief  
magistrate being in fact only president of the Executive

1790. Council, but with no more authority than any other member of it. As a sort of substitute for a senate, and to prevent the inconvenience of hasty determinations, all bills of a public nature were required to be printed for the consideration of the people before their final passage; nor, except on occasions of public emergency, were they to be passed till a succeeding session. But, in practice, this provision had been almost entirely dispensed with, every act which a majority could be found to pass being considered a matter of emergency. Another peculiarity was the provision for a Council of Censors, to be composed of two members from each county, to meet once in seven years, with authority to investigate all breaches of the Constitution, and to recommend changes in it. That violence of party spirit for which Pennsylvania had been distinguished, almost from the first day of her settlement, found ample scope in the attack and defense of this frame of government. The Republicans, as they had called themselves, including most of the distinguished men in the state, objected to the Constitution its want of checks and balances, and of a proper distribution of authority; objections regarded by the other party as indicating an aristocratical tendency, the Constitution as it stood being, in their eyes, the true model of a democratic government. About the time of the ratification of the Federal Constitution, the Republican party having acquired the control both of the Assembly and of the Executive Council, a project, already two or three times defeated, was again revived, of a Convention for amending the state Constitution, which was said, indeed, to require certain modifications to adapt it to the new federal system. Any action in this matter on the part of

the Assembly was opposed by the Constitutionalists, who insisted that, by an express provision of the existing Constitution, the sole power of calling such a convention was vested in the Council of Censors, whose constitutional period of meeting was now fast approaching. But to this the other party objected the unequal representation of the people in that body, each county, large and small, being allowed two members; also the restriction upon any effectual action in the requirement of two thirds of the whole number for calling a convention. The Constitutionalists also relied upon an oath imposed by the first Constitution upon all persons holding office, "not to do or say any thing, directly or indirectly, that should be prejudicial or injurious to the government as established." But this very oath was denounced by the Republicans as inconsistent with the rights of freemen, and was represented as in itself an additional reason for revising the Constitution.

An act having passed for calling a Convention, the opponents of the existing Constitution, all of whom, in national politics, professed to be Federalists, succeeded in securing a small majority. The most distinguished leaders on that side were Wilson, Mifflin, and Chief Justice M'Kean; and among the younger members Ross, Addison, and Sitgreaves. The chief leaders on the other side, anti-Federalists in national politics, were Findley, Smilie, and Snyder, of all of whom we shall have occasion hereafter to speak. Gallatin also co-operated with them; but he was yet undistinguished, and his share in the debates was not conspicuous.

By the new Constitution as adopted, the representatives chosen annually, never less than sixty nor more than a hundred, were to be distributed among the counties in proportion to the taxable inhabitants, to be ascer-

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CHAPTER III. tained once in seven years, the same basis prescribed in the first Constitution; but the restriction contained in 1790. that Constitution, to serve no more than four years in seven, was dropped. The only qualifications required were citizenship of the state for three years, and residence in the district for one year. The senators, never more than one third nor less than one fourth the number of representatives, were to be apportioned on the same principle among districts to be formed by the Legislature; but no district was to choose more than four senators. The senators must be twenty-five years of age and four years citizens of the state. They were to serve four years, and to be divided into four classes, one class to go out annually.

As the want of a senate had been one chief objection to the first Constitution, the provisions on this subject were objects of special interest. The committee appointed to report a draft of a new Constitution, in order to make the distinction between the two houses as marked as possible, had proposed to imitate the Maryland plan—long persevered in, but since abandoned by that state—of a choice of senators not directly by the people, but by the intervention of a body of electors specially chosen for that purpose. This, it was argued, would secure a Senate more respectable and select than if the choice were made directly by the people. Much to the surprise and disgust of many of his political friends, and generally of the party with which he acted, this idea was vehemently attacked by Wilson. With that vein of strong good sense and clear appreciation of the actual constitution of society in America, of which he had given so many proofs in the Federal Convention, he pronounced this contrivance no less illusory than it would be unpopular. The longer term assigned to senators, their choice

by larger districts, their sitting as a separate body, and the *esprit de corps* which would thus be produced, would CHAPTER III.   
 repder the two houses a sufficient check upon each other without any difference in the method of choice. 1790.   
 Wilson carried only a small portion of his party with him; but, as he was supported by the whole body of the opposition, his views prevailed.

The executive power was vested in a governor, to be elected by the people for the term of three years, but disqualified to hold the office more than nine years out of twelve. It had been proposed that the choice of governor should be made through the medium of electors, but the eloquence of Wilson prevailed to give it directly to the people. In the extensive authority bestowed upon this officer, the model of the Federal Constitution was closely followed. Like the President of the United States, he had a qualified veto on all acts of the Legislature, the granting of reprieves and pardons, and the appointment to all offices the filling of which was not otherwise provided for.

The old colonial method was still continued of the nomination by popular vote of two persons in each county as candidates for the office of sheriff, and two others for the office of coroner, the governor to fill the offices respectively by selecting one of those thus nominated. The election of state treasurer was to be by joint ballot of the two houses, and the appointment of the other treasury officers to be regulated by law. With these exceptions, the appointment to all civil offices of every description was in the sole gift of the governor, whose patronage was thus very extensive, far exceeding that possessed by any other state governor, and superior, indeed, at this time, to that of the President of the United States. Mifflin was chosen the first governor under this



CHAPTER III. Constitution, St. Clair, the opposing candidate, receiving but few votes.

1790. Every tax-paying citizen, two years a resident, and the sons of such citizens between the ages of twenty-one and twenty-two, were entitled to vote. All elections, except those in a representative capacity, to be by ballot—provisions substantially copied from the first Constitution.

The old judicial system was also continued, with this alteration, that the judges of the higher courts were to be appointed, not for seven years, as the first Constitution had directed, but for good behavior. They were to receive an adequate fixed compensation, not to be diminished during their continuance in office; but, by a judicious provision, no part of it was to consist in fees or perquisites. The unstable tenure and the dependence of the judiciary had been one chief objection urged against the first Constitution.

The Bill of Rights re-enacted the old colonial provision, copied into the first Constitution, respecting freedom of worship, the rights of conscience, and exemption from involuntary contributions for the maintenance of any ministry. The recognition of a God, and of a future state of rewards and punishments, seemed still to be required as a qualification for holding office; but the subscription which the first Constitution had demanded from the members of Assembly of their belief in the divine inspiration of the Old and New Testament was now dropped. The Legislature were directed to provide "as soon as conveniently may be" for the establishment of schools throughout the state, in which the poor might "be taught gratis;" but a long period elapsed before this provision was carried into effect. By an important republican modification in the English law of libel, since

generally adopted either by legislative enactment or judicial decisions in the other states, in all cases touching the conduct of public officers, or where the matter was proper for public information, the publication might be justified by giving the truth in evidence.

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After remaining in force for near fifty years, this Constitution underwent, in 1838, some modifications. The patronage of the governor was greatly reduced, the concurrence of the Senate being required in the appointments to judicial offices, and the election of all county officers being given to the people. The terms of judicial office were also restricted to fifteen, ten, and five years, the longer periods in case of the higher courts. Of the political experience which led to these changes, and which has produced in our times a strong and still growing disposition to limit the period of judicial office, and to give the appointment of all officers, even those of a judicial character, directly to the people, we may find occasion to speak hereafter.

The Wyoming controversy, growing out of the claim of Connecticut to the northern portion of Pennsylvania, settled, so far as the right of jurisdiction was concerned, by the federal court held at Trenton in 1782, had yet left behind it a violent contest as to the title to the lands. An attempt in favor of the claimants under Pennsylvania grants to dispossess the Connecticut settlers by force led (1784) to a collision, in which some blood was shed, known among the New England settlers as the "second Pennamite war," and then to a revival in Connecticut of the Susquehanna Company, and of a claim on its behalf, so far as the ownership of the soil was concerned, to the whole tract of northeastern Pennsylvania, originally purchased of the Indians by the Connecticut adventurers. The influx of new settlers under grants from this revived

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Connecticut Company, and the purpose on their part,  
scarcely concealed, to imitate the example of Vermont,  
1790. by wresting this district from the jurisdiction of Pennsylvania and erecting it into an independent state, had brought over the Pennsylvania Assembly to a more conciliatory policy toward the old Connecticut settlers, whom it was hoped to detach from the new immigrants. In the years 1786 and 1787 acts had passed for confirming the settlers of prior date to the Trenton decision in possession of their lands, other lands elsewhere to be given to the Pennsylvania claimants. At once to satisfy the inhabitants, and to give effect to the jurisdiction of Pennsylvania, the disputed territory, hitherto attached to the county of Northumberland, had been erected into a new county called *Luzerne*, after the French ambassador. Timothy Pickering, adjutant general, and afterward quarter-master general of the Revolutionary army, himself a New Englander, having purchased lands and resolved to settle in this new district, had been appointed clerk of the new county, and commissioner also for confirming on certain conditions the titles of all settlers prior to the Trenton decree. For his colleagues in this business the Legislature had assigned to him Alexander Patterson and John Franklin, the leaders respectively of the Pennsylvania and Connecticut parties. Most of the old settlers thus confirmed in their titles were inclined peaceably to submit; but Franklin, who had taken a very active share in the reorganization of the Susquehanna Company, was not so easily to be appeased. Jealous of his movements, Pickering obtained a warrant against him for high treason, and, not without some difficulty and danger, caused him to be arrested, and sent a prisoner to Philadelphia. But so great was the excitement which this proceeding caused, especially

among the more recent immigrants, that Pickering judged it expedient to withdraw for a season. During his absence, he had been chosen by the county of Luzerne a member of the Pennsylvania Convention for taking into consideration the new Federal Constitution, and, encouraged by this mark of confidence, he ventured, after the Convention was over, to return again and resume his duties as clerk of the county. But Franklin being still detained a prisoner, Pickering himself was presently seized in his bed and carried off into the woods, to be kept as a hostage for Franklin's safety. After a detention of nineteen days, the militia of the neighboring counties being called out, Pickering's captors became alarmed, and he was released. These disturbances in Luzerne, countenanced, it was believed, by the Connecticut members of the Susquehanna Company, had led to the suspension of the law confirming the old Connecticut titles, and, a few months before the meeting of the Constitutional Convention, to its total repeal. After more than a year's imprisonment, the obstinacy of Franklin had yielded at last, and he had been released on a promise to make no more opposition to the authority of Pennsylvania. An indictment for high treason had been found against him at the first session of the Supreme Court held in Luzerne, but that indictment was never prosecuted. Pickering, elected to represent the county in the Constitutional Convention, put his hand in that capacity to the new Constitution. There was no more resistance to the jurisdiction of Pennsylvania, but the repeal of the confirming law left matters in a very feverish state. The question of title was thus thrown into the courts, and a ten years' litigation followed, but, from the combination among the settlers to maintain each other in possession, with very little fruit to the Pennsylvania

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April

CHAPTER III. claimants. The bitter feelings and strong prejudices thus created throughout the state against the New England intruders, and hence against New England generally, were not without a powerful effect upon the politics of Pennsylvania, helping, among other things, to draw her off from her old New England connection, and to throw her into the political embrace of Virginia.

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Already the third state in point of population, indeed almost equal to Massachusetts in that respect, and destined soon to surpass her, with a central situation, genial climate, and fertile territory, communicating on the east with the Atlantic and on the west with the great valley of the Mississippi, and possessing in Philadelphia, lately the federal capital and again soon to become so, the largest and wealthiest city in the Union, Pennsylvania might have been expected to take a leading part in national politics. But from this she was disabled by several circumstances, of which the principal was the want of homogeneity and community of feeling among the various classes of her population. The Episcopalians, the Quakers, and the Presbyterians, the latter mostly of Scotch Irish origin, were kept apart by strong mutual antipathies, while the great body of the Germans, many of whom did not even speak the English language, formed a still more distinct class by themselves. Add to this those great differences in political sentiment which had sprung up in Pennsylvania during the Revolutionary war. A large portion of her inhabitants had been disaffected to the Revolution, while those who supported it had been divided into two very bitter and hostile parties, a state of things in strong contrast to the unanimity of feeling which had prevailed in Virginia and Massachusetts, and which had given to them that political leadership which they still retained. This unanimity, indeed, was soon a

good deal broken in Massachusetts ; but, being preserved CHAPTER  
in Virginia to a remarkable degree, it went far toward <sup>III.</sup>  
securing to that state the complete political ascendancy 1790.  
to which she ultimately attained, and of which Pennsylvania served as but a passive instrument. In political consideration, apart from the mere number of her votes, that state long remained below even New York, Connecticut, Maryland, and South Carolina, an inferior position from which she has but very gradually and not yet entirely emerged.

The political influence of the Quakers, once predominant, had disappeared before the Revolution, and they now labored also under the obloquy of having been disaffected or lukewarm toward that change. Yet they still strove, and not without success, to bring their own peculiar principles of trust in humanity and long-suffering patience to operate on the political institutions of the state ; and their influence and efforts contributed not a little to mitigate the penal code, by restoring it to the condition in which it stood before the original Quaker enactments had been superseded by adopting the English law. To them also the state was indebted for that improved system of prison discipline then just beginning to be carried into practice, which has served for a study and a model, not to the sister states only, but to the most enlightened nations of Europe. Of their efforts on the subject of slavery and the slave trade, we have already seen something and shall see more.

In another object which the Quakers had much at heart, they were not so successful. That object was the continued interdiction of theatrical entertainments, suspended throughout the states at the commencement of the Revolution, but which attempts were being made again to revive by that same company of actors which,

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in 1752, had first introduced into the North American colonies the regular performance of stage-plays. The company, of course, had undergone great changes, but it was still headed by Lewis Hallam, son of the original manager, and himself, though then a boy, one of the original theatrical emigrants to America. This company, in 1774, had theaters in New York, Philadelphia, Annapolis, and Charleston. But the Continental Congress having passed a resolution recommending the discontinuance and discouragement of "shows, plays, and other expensive diversions and entertainments," "though strenuously urged by Governor Tryon and General Robertson to contravene the resolution" (so at least Hallam alleged, in a memorial to the Massachusetts Legislature), the company "determined to leave the Continent rather than offend the patriotic supporters of their country's freedom." They had sailed, accordingly, for Jamaica prior to the commencement of hostilities, "and in the torrid zone languished out ten tedious years," so says the memorial, "consoling themselves with the pleasing anticipation of the glorious peace that was at length effected. During the whole distressful war they sympathized with their country, they drooped when she bled, they rejoiced when she triumphed. Reiterated applications were made to them by all the different commanders at New York, while the war continued, to return, accompanied with assurances of great encouragement and most flattering prospects of pecuniary advantages. But, though they were suffering great loss of property, and debilitating their constitutions in a burning climate, they scorned them all; they felt themselves Americans, and would not act in opposition to their country."

Upon their return to the United States, and the reopening of their theaters in 1785 in Philadelphia and

New York, these patriotic players had been received on the part of many with marked signs of aversion. CHAPTER  
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Massachusetts had then lately re-enacted her old colonial 1790.

statute prohibiting theatrical performances. A similar law was passed in Pennsylvania in 1786; and even South Carolina, by an act of the next year, had classed all persons representing publicly for hire "any play or entertainment of the stage" as vagrants, who might be required to give security for good behavior, or be committed to the county jail, and, at the option of the court, sold for a term not exceeding one year. An attempt to obtain a similar law in New York did not succeed. It was at this inauspicious moment, in 1786, that the first American play ever performed on the stage was brought out at New York—"The Contrast," a comedy by Royal Tyler, a young lawyer, afterward Chief Justice of Vermont, and whose story of the "Algerine Captives," designed to excite sympathy on behalf of the American citizens held in slavery by the Barbary pirates, had at one time no little celebrity.

The actors did not rest quiet under the legal restrictions thus imposed upon them. Their petition to the Pennsylvania Legislature, after the power had passed out of the hands of the Constitutionals, had procured, in 1789, the repeal of the prohibitory act. Nor could the Quakers, though they made repeated efforts, ever again obtain its re-enactment. In 1790, Hallam presented to the Legislature of Massachusetts the memorial quoted above, asking leave to open a theater in Boston. This petition was rejected; but the next year the subject was brought before the town on the petition of several citizens, and a vote was passed in town meeting, instructing the Boston representatives to exert their influence with the General Court to obtain a repeal of the



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prohibitory law. This effort failed as before. Mean-  
while, however, in 1791, South Carolina repealed her  
1790. law upon the subject.

In spite of the unrepealed act of Massachusetts, a small theater was built in Boston, which was opened in 1792 as the "New Exhibition Room." To the Legislature which met shortly after, Governor Hancock complained "that a number of aliens and foreigners had lately entered the state, and in the metropolis of the government, under advertisements insulting to the habits and education of the citizens, had been pleased to invite them to, and to exhibit before such as attended, stage plays, interludes, and theatrical entertainments, under the style and appellation of moral lectures." All which, as he complained, had been suffered to go on without any steps taken to punish "a most open breach of the laws and a most contemptuous insult to the powers of government." Shortly after this denunciation by the governor, suddenly one night, in the midst of the performance of the *School for Scandal*, the sheriff of the county appeared on the stage, arrested the actors, and broke up the performances. When the examination came on, having procured able counsel, the actors were discharged on the ground that the arrest was illegal, the warrant not having been sworn to. This defect was soon remedied, and a second arrest brought the performances to a close. But the Legislature, finding the sentiment of the town of Boston strong against the law, and that a new and permanent theater was in the course of erection, repealed the act a few months after. This was in 1793, the desire to tell this whole story at once having carried us nearly three years beyond the period to which the present chapter more particularly relates.

Not discouraged by the ill success of his first attempt

to negotiate with the Creeks, Washington had dispatched Colonel Willett on a new mission to that confederacy. CHAPTER  
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Willett had persuaded the chief, M'Gillivray, to proceed 1790.

to New York, where the negotiation might be carried on with less liability to interruption, or influence from local interests or wishes. Accompanied by twenty-eight principal chiefs and warriors of his nation, M'Gillivray was very cordially and ceremoniously received both at Philadelphia, as he passed through it, and in New York, where he arrived while Congress was still in session. In his June 23.

reception at New York, a leading part was taken by the Tammany Society, or Columbian Order, an association then recently instituted, afterward famous from its connection with politics, over which it still claims to exercise a certain influence. Professing to be a national society, "founded on the true principles of patriotism, and having for its motives charity and brotherly love," its pageantry exhibited a strange jumble of European and Indian ideas. The ideal patrons of the society were Columbus and Tammany, the last a legendary Indian chief, once lord, it was said, of the island of Manhattan, and now adopted as the patron saint of America. The association was divided into thirteen tribes, each tribe typifying a state, presided over by a sachem. There were also the honorary posts of warrior and hunter, and the council of the sachems had at their head a grand sachem, a type evidently of the President of the United States. Arrayed in their Indian dresses, this society escorted M'Gillivray and his Creeks into the city, and afterward entertained them at a public dinner. As being the son of a Scotsman, M'Gillivray was also chosen an honorary member of the St. Andrew's Society. Having first obtained the advice and consent of the Senate as to the terms of an arrangement, Washington appointed Knox

CHAPTER III. as commissioner to negotiate with the Creeks; and a treaty having been concluded, it was solemnly ratified 1790. the day after the adjournment of Congress. The president, with his suite, met the Creek chiefs in the hall of the House of Representatives, in presence of a large assembly. The treaty having been first read and interpreted, Washington addressed the Indians, who gave to each paragraph of his speech, as it was interpreted to them, an audible and emphatic assent. Having signed the treaty, he presented a string of wampum as a memorial of the peace, and a paper of tobacco to smoke in commemoration of it—a substitute, it would seem, for the old Indian custom of actually smoking the calumet. On receiving these tokens, M<sup>c</sup>Gillivray made a short reply, to which followed the “shake of peace,” a shaking of hands interchanged between Washington and each of the chiefs. The ceremony was then concluded by a “song of peace,” in which all the chiefs joined.

Mutual concessions were made by this treaty. All the territory south and west of the Oconee, including the tract recently claimed and partly occupied by the Georgians, was solemnly guaranteed to the Creeks, they resigning all pretensions to any lands north and east of that river, and acknowledging themselves to be under the sole protection of the United States. There was to be a mutual exchange of prisoners, and all Creeks hereafter committing murder or robbery upon any white inhabitant were to be given up for punishment, the Creeks, however, reserving the right to punish at their discretion any white men intruding on their lands. As an inducement to the Indians to come into this arrangement, and to secure their fidelity, it was provided by a secret article that presents to the value of \$1500 should annually be distributed among the nation. Annuities of one hundred

dollars were also secured to six of the principal chiefs, and to M<sup>c</sup>Gillivray \$1200 annually, in the name of salary as agent of the United States. He was also to enjoy the privilege of importing goods for supplying the Indians duty free. 1790.

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The giving up to the Indians of the lands south and west of the Oconee occasioned great dissatisfaction in Georgia. An association was formed among some of the more violent for settling those lands in spite of the treaty; but this bravado does not seem to have been persisted in. The Legislature passed resolutions in which several articles of the treaty were severely criticised, preceded, however, by a declaration that the arrangement was legal and binding, and pledging the faith of the state to support it. Even among the Creeks themselves it met with some opposition, excited by one Bowles, a white man, a native of Maryland, formerly an Indian agent under the British authority, who arrived about this time from Bermuda, pretending British support, and seeking to set himself up as a sort of rival to M<sup>c</sup>Gillivray.

An attempt to arrange matters with the Western Indians was less successful. Encouraged by Sir John Johnson, the former British Indian agent, and by the British authorities in Canada, where Sir Guy Carleton, now Lord Dorchester, was again governor, the Western tribes insisted on re-establishing the Ohio as the Indian boundary, nor would they listen to any other terms. The hostile warriors infested the banks of that river, way-laying the boats in which emigrants descended; and they still continued their incursions into Kentucky, attacking the more remote stations, and committing many murders.

An attempt at retaliation had been made in the spring by a party of two hundred and thirty Kentucky volunteers, joined by a hundred regulars from Fort Washing- April

CHAPTER III. ton. They marched under Harmer to the Scioto, but  
found the Indian camp deserted, and returned without  
1790. accomplishing any thing. A more formidable expedition, consisting of three hundred and twenty regulars, joined by two quotas of militia, one from Pennsylvania, the other from Kentucky, amounting in the whole to eleven hundred men, called out by order of the president, marched in the autumn against the Miami village of the Maumee, where now stands the town of Fort Wayne. On the approach of this force the Indians fled. Their village was burned, and their corn-fields were ravaged; but Colonel Hardin, detached in pursuit with a hundred and fifty of his Kentucky militia and thirty regulars under Captain Armstrong, after a march of about six miles, fell into an ambush, when the militia took to flight at the first alarm, without hardly firing a gun, deserting the regulars, who stood firm till most of them were killed. The Indians remained on the field, and during the night held a dance of victory, exulting with frantic shouts and gestures over their dead and dying enemies, a ceremony of which Captain Armstrong was a constrained and wretched witness, being sunk to his neck in mud and water within a hundred yards of the scene. The Indians approached Harmer's camp, and some skirmishing ensued; but he moved off a day or two after, without attempting to bring them to action. Soon, however, he seems to have changed his mind; for on the second day's march, when about ten miles from his late camp, he called a halt, and sent Hardin back to the ruined town with some sixty regulars and three hundred militia. The Indians found there separated themselves into small parties, and, seeming to fly, drew off the militia in pursuit, when suddenly a band not hitherto seen rose from the grass and attacked the regulars with their tomahawks. Recalled

from their vain pursuit, the militia presently came to the aid of the regulars; but, after a hard and murderous struggle, the whites were driven from the ground, leaving fifty of the regulars behind them, and twice as many militia. Thus repulsed, Harmer retired without attempting any thing further, though, strangely enough, claiming a victory. Out of this unfortunate expedition grew many jealousies and discontents. Harmer and Hardin were tried by court-martial. Both were acquitted, but Harmer resigned his commission.

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That anti-Federal feeling which at first had vented itself in criticisms on the new Constitution and demands for amendments, began, simultaneously with the adjournment of Congress, to transform itself into an opposition to the financial policy of the government. Openly to assail the funding of the Continental debt, whatever might be the feelings of many on that subject, would hardly have been promising ground for a party to stand upon. The assumption of the state debts was, therefore, made the great subject of complaint; a new topic of political discontent, which made a considerable change in the party relations of individuals. Gerry, by his earnest advocacy of the assumption, and, indeed, by his general support of the financial system of the government, seemed to have become almost a Federalist; while Madison, regarded during the first session of Congress as the great federal champion, by his more recent course had come to identify himself very much with the opposition, and thereby to re-establish a political sympathy between himself and the ruling majority of his own state.

The Virginia Assembly, as the head of the opposition, sounded the key note in a resolution, carried through the House of Delegates by a vote of seventy-five to fifty-two, declaring so much of the late act of Congress as

Nov. 3

CHAPTER III. provided for the assumption of the state debts "repugnant to the Constitution of the United States," as being "the exercise of a power not expressly granted to the general government." Even the funding of the Continental debt did not escape censure; so much of the act as restrained the United States from redeeming at pleasure any part of that debt being denounced as "dangerous to the rights and subversive of the interests of the people." A memorial in relation to these two subjects was ordered to be drawn up, to be presented to Congress. A resolution was also passed recommending that the doors of the Senate, while that body was engaged in legislative matters, should be open to the public—a recommendation seconded by the Legislatures of Pennsylvania, New York, and the two Carolinas. While censuring the assumption of the state debts, the Virginia Assembly evinced, however, its satisfaction at the act by means of which that assumption had been carried through the House for fixing the permanent seat of the federal government on the Potomac. They voted the sum of \$110,000 toward the erection of the public buildings, and the Legislature of Maryland appropriated \$70,000 to the same purpose.

The Legislature of North Carolina had scornfully refused to take an oath to support the Federal Constitution, as well as to pass an act, requested by Congress of all the states, to allow to the federal government the use of the state jails. At the session succeeding the adjournment of Congress, very violent resolutions were brought forward on the subject of the assumption of the state debts. But the party which had secured the ratification of the Federal Constitution having rallied to prevent their passage, the Legislature was induced to content itself with complaints of the secrecy of the sen-

atorial debates, and of the enormous salaries allowed to federal officers. CHAPTER  
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Meanwhile, in conformity to the late act to that ef- 1790.  
fect, the departments of the federal government had  
transferred themselves to Philadelphia. In the old  
court-house on Chestnut Street, convenient accommoda-  
tions for the two houses of Congress had been fitted up  
by order of the city councils. When Congress met for Dec. 6  
its third session two new members from Virginia made  
their appearance, the one in the House, the other in the  
Senate, both soon conspicuous in national affairs. In  
the House, William B. Giles, a lawyer from the Peters-  
burg district, supplied the seat made vacant by Bland's  
death. A vacancy in the Senate, occasioned by the death  
of Grayson, was filled by James Monroe. Descended  
from an ancient family of Virginia, and educated at the  
College of William and Mary, Monroe had entered,  
in his eighteenth year, the military service at the com-  
mencement of the Revolution, had served through the  
campaign of 1776 as lieutenant in one of the Virginia  
regiments, had been wounded at the battle of Trenton,  
and, in the two following campaigns, had acted as an  
aid-de-camp to Lord Stirling. Having attempted to  
raise a regiment in Virginia, but without success, he  
commenced the study of the law under Jefferson, then  
governor of Virginia, by whom he had been sent, after  
the fall of Charleston, to South Carolina, to report on  
the means of aiding that state. Elected in 1782 a  
member of the Virginia Legislature, he had shortly af-  
terward been placed in the executive council, and in  
1783 had been appointed to succeed Madison in the  
Continental Congress, which place he held for three  
years, the limit prescribed by the Articles of Confedera-  
tion. In 1787 he was again elected to the state Legis-



CHAPTER III. lature, and the next year had been a member of the Convention to consider the Federal Constitution. In that 1790. body he had taken a decided stand against ratification, a merit—for so it was considered in Virginia—which now helped to place him in the federal Senate. Another change in that body had been occasioned by the retirement of Patterson, chosen to fill the place, as governor of New Jersey, left vacant by the death of that eminent Revolutionary patriot, William Livingston. Patterson's seat was filled by Philemon Dickinson, who had rendered good service during the Revolutionary war as commander of the New Jersey militia.

The president's speech congratulated Congress on the financial prosperity of the country, evinced by the unexpected productiveness of the import duties, which, in little more than thirteen months, up to the end of September, had produced the sum of \$1,900,000. In consequence of the improving credit of the country, certificates of the domestic debt had risen to seventy-five cents on the dollar. A loan, in part execution of the powers intrusted to him for the liquidation of the foreign debt, had been obtained in Holland without difficulty and on favorable terms. Attention was called to the state of the Western frontier, a short account being given of the expedition authorized under Harmer, rumors of the repulse of which just began to arrive. After some allusions to the disturbed state of Europe, the consideration was suggested of measures for the protection of American commerce, especially in the Mediterranean. Attention was also called to regulations touching the authority of consuls, especially those of France under the consular convention; to the establishment of a mint; to a uniform system of weights and measures; to a reorganization of the post-office system, and a uniform militia.

There would be needed, according to the calculations of the Secretary of the Treasury, principally to meet the charges growing out of the assumption of the state debts, an additional annual revenue of \$826,000. This sum he proposed to raise by an increase of the duties on imported spirits, and a tax by way of excise on those produced at home. This measure of an excise, notwithstanding the repugnance to it exhibited at both the previous sessions, was pressed in a very elaborate report. The plan proposed would be free from the objections principally urged to taxes by excise. No summary jurisdiction would be vested in the excise officers, nor any authority of searching and visiting without special warrant, except the places specially designated by the dealers and manufacturers themselves as depositaries of spirits. The practicability of the collection had been already demonstrated, a similar duty on spirits having been heretofore imposed by the states of Pennsylvania, Massachusetts, and Connecticut, and even a general excise by the latter state upon the consumption of all foreign articles. As to the expense of the collection, which was much objected to, the secretary considered the machinery necessary for the collection of the domestic duty essential to secure the due payment of the foreign impost. There were but two systems for the collection of taxes—reliance on the integrity of the individuals to be taxed, the system hitherto chiefly followed in the collection of state taxes, and reliance upon the vigilance of public officers. It was this latter method which he proposed to adopt. The other method held out too great a temptation to false swearing, resulting in great frauds on the revenue, the temptation of interest being too powerful for men in general to resist.

Duties on the great mass of imported articles had

CHAPTER III. been carried to a point which it was not desirable to exceed, and which could not be exceeded without going

1790. counter to the sense of the great body of the merchants. Considering their general attachment to the federal system, their ready co-operation in the enforcement of the revenue laws, their cheerful submission to the additional duties imposed at the last session, and the extent of the innovation already made on the former system of contributions, their opinion, though not decisive on the subject, the secretary considered to be entitled to respect. Nor would it be wise to give occasion for supposing that trade was to bear the whole weight of federal taxation.

Direct taxes were not only difficult of collection, but it was desirable to reserve them for cases directly involving the public safety, and interesting, therefore, to the whole community. The only alternative seemed, therefore, to be a tax on internal consumption; and surely, of all articles consumed, none were fitter to be taxed than spirits, whether foreign or domestic. Indeed, the policy of this tax, as regarded the health and morals of the community, was supported by a memorial from the Philadelphia College of Physicians.

1791. A bill in close conformity to the secretary's plan was  
Jan. 5. very warmly opposed by the voluble Jackson, who did not wish to subject the trade between Georgia and the West Indies to any further burdens; by Parker of Virginia; by Stone of Maryland; and with great earnestness by Steele and Bloodgood of North Carolina. According to Steele, the consumption of spirits was so great in North Carolina, that the amount of tax thus made to fall upon his constituents would be ten times as great as in the case of Connecticut. Livermore, on the other hand, sustained the bill, as proposing a mode of taxation not only equal and just, but one likely to be agreeable to the peo-

ple, who would consider it a drinking down, as it were, of the national debt. The bill was also supported by <sup>CHAPTER III.</sup> Madison. As money must be had, he saw no better 1791. means of raising it. The opposition to the bill was strengthened by a series of resolutions against it, passed by the Pennsylvania Legislature, then in session at Philadelphia. But, after a series of warm debates, it was carried through the House by a vote of thirty-five to twenty-one. As finally passed, the act imposed upon all imported spirits a duty varying from twenty to forty cents per gallon, according to strength—a great advance upon the first timid tariff, but not half the amount which has since been levied. The excise to be collected on domestic spirits varied with their strength, from nine to twenty-five cents per gallon on those distilled from grain, and from eleven to thirty cents when the material was molasses or other imported product; thus allowing, especially when the duty on molasses was taken into account, a considerable discrimination in favor of the exclusively home product.

For the collection of these duties, each state was made an inspection district, with its Supervisor; each district to be subdivided, as might be necessary, into Surveys of Inspection, each with its Inspector. As many Offices of Inspection as might be found convenient were to be established in each district, to have the control of the landing of all imported spirits, and, in the case of domestic spirits, the ascertainment of the quantity and quality, as well as the collection of the duties. All distillers were required to enter their distilleries at the nearest office of inspection, with a complete description of all the buildings, which buildings were to be subject to the constant examination of an inspector appointed for that purpose, who was to gauge and brand the casks, the duties

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to be paid before the removal of the spirits from the distillery. But, to save the expense and the trouble to

1791. both parties of this constant oversight, the small country stills not situate in any town or village were to pay an annual rate of sixty cents per gallon on the capacity of the still. All casks containing spirits, not properly branded and certified, were liable to forfeiture. On the exportation of domestic spirits, a drawback was allowed equivalent to the excise, except a deduction of half a cent per gallon, with an additional drawback of the molasses duty in case of spirits distilled from that material.

The resolutions of the Legislature of Pennsylvania against this tax being echoed in North Carolina, Virginia, and Maryland, no doubt became one principal cause of the opposition encountered in its collection. In these four states the small private distilleries were very numerous, amounting, it was said, in Pennsylvania alone, to not less than five thousand.

While the House had been employed on the excise, another proposition of the Secretary of the Treasury for a national bank had been under consideration in the Senate. In his report on this subject, Hamilton had urged in favor of such an institution the facilities which banks afforded to trade, and the benefits to be expected in a commercial point of view. But what he chiefly dwelt upon was the convenience to the government of a paper medium in which to conduct its monetary transactions, and of a resource for such temporary loans as might from time to time be required.

Duly to estimate the force of these reasons, it is necessary to understand the precise monetary position of the United States at the moment they were offered, and what had been hitherto the experience of the country on that subject. From the first commencement of the North

American settlements, as they were always in debt to the mother country, there had been a constant tendency in such coin as might reach them to flow toward England. Hence, for the convenience of domestic trade, it had been found necessary to establish some additional local currency. In Virginia, Maryland, and North Carolina, tobacco, the chief exportable product, long served for that purpose; in New England, corn and cattle, at certain rates, fixed from time to time, were the established medium for the payment of taxes and the discharge of colonial contracts. The first innovation upon this primitive system was made in Massachusetts, in 1690, by the issue of government bills or treasury notes, receivable in payment of taxes; and afterward, to give them a greater currency and value, made a legal tender in payment of debts. This expedient had been resorted to at first, and was imitated in the other New England colonies, in the adjoining province of New York, and soon after in the Carolinas, not with any design to furnish a currency, but as a convenient, and, indeed, necessary means of anticipating the taxes during the first two intercolonial wars, from 1689 to 1714. Such, however, was found, or thought to be, the convenience of these bills merely as a medium of trade, that a scheme had been hit upon for continuing their issue even during peace, and with the professed object of furnishing at once a currency for the people, a revenue to the government, and a source whence capital might be borrowed by the enterprising. This scheme, first introduced in South Carolina, but speedily imitated in Massachusetts, had consisted in the issue of colony bills, to be let out on interest to such as could give the required security, the interest to furnish a revenue to the state, and to serve, so far, as a relief from taxation. This loan-office sys-

CHAPTER III. tem, as it was called, had been subsequently introduced into the other New England states, also into Pennsy-

1791. vania, New Jersey, and Maryland; and in these three latter states had continued to be kept up down even to the Revolution. But both these methods of issue, whether by way of loan or to meet the exigencies of government were found liable to great abuses, quite fatal to the paper as a measure of value. There was a constant tendency to over-issue, whence resulted a corresponding depreciation. Yet this very fault of the system was what chiefly served to recommend it to many—a profuse issue of paper operating, in fact, as a general insolvent law all debtors being thereby enabled to discharge their debt at a half, a third, a quarter, sometimes a tenth or twelfth part of the amount actually due.

After an ample experience of these bills of credit in every form of issue and in all their methods of operation, Massachusetts, on the termination of the third intercolonial war in 1748, had concluded to abandon the paper system altogether, the indemnity allowed her by the British Parliament for her expenses in the capture of Louisburg furnishing her the means to redeem her outstanding bills at the current rate of about twelve for one. To compel the other New England colonies to imitate her example, or, at least, to restrict their issue within narrow limits, the passage of an act of Parliament was procured, by which they were prohibited to issue any bills, except from year to year, in anticipation of taxes previously laid; nor could even these be made a legal tender.

The breaking out of the war, which resulted in the conquest of Canada, and the heavy expenses which all the colonies were obliged to incur, led in all of them Massachusetts only excepted, to new and profuse issue

of bills of credit. Virginia, then for the first time in-  
volved in serious expenses, resorted at last to paper money  
issues, by which the use of tobacco as a currency seems  
soon to have been in a great measure superseded, as  
it already had been in North Carolina and Maryland.

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The colonial paper money had long been a subject of complaint on the part of the British merchants; and, soon after the Canadian war had been brought to a conclusion, they had obtained an act of Parliament, by which the provisions of the New England Restraining Act were extended to all the colonies. From that restraint the Revolution set them free; and, to raise means for the struggle, the paper money system had been pushed to an extent before quite unknown. Such was the excess of issues, that within six years the paper money, both state and national, lost all its credit and ceased to circulate. Yet the downfall of this paper had been by no means followed by a healthy state of the currency. Apart from the interruption of commerce by the war, the country was altogether too poor and exhausted to supply itself with specie from abroad; and the loans obtained from France, and the sums sent over for the expenses of the French auxiliary army, went but a little way toward filling the gap. The Continental bills were, in fact, succeeded by Continental certificates for supplies, army pay, &c., and these, with the certificates of the state and federal debt, the whole greatly depreciated, had served, though but poorly, the purpose of a currency. Some of the states subsequently to the peace had even resumed the issue of paper money; but to this a stop had been put by the new Constitution.

In the midst of all this monetary confusion, the rudiments of a better system had appeared. Simultaneously with the introduction into America, near a hundred years



CHAPTER III. before, of the currency of bills of credit, the Bank of England had introduced into that country the issue of  
1791. bank-notes, payable in cash on presentation. This idea of a redeemable currency was carried into effect, for the first time on this side of the Atlantic, by the Bank of North America, established by Robert Morris just at the close of the late war, chiefly as an assistance to him in the difficult office of superintendent of the Continental finances. The use of this new sort of bills, added to the convenience of loans to the merchants, was soon found so satisfactory, that banks on the same principle had since been established at New York and Boston. These three banks, to which another at the rising city of Baltimore was just about to be added, were at this time the only ones in the country, and their circulation was confined to the cities in which they were situated. The Bank of North America had originally been chartered by the Continental Congress, but upon some doubts as to the authority of that body, a charter had also been obtained from the State of Pennsylvania. Its connection with the Continental treasury seems to have ceased with the retirement of Morris, and it was now a mere state institution.

No national mint yet existed; the only coinage under the Continental Congress had been a quantity of cents manufactured by contract. The Spanish dollar, always the chief circulating coin of North America, had been adopted as the monetary unit, and, by a section of the first tariff act, the value of other coins had been fixed in relation to it, those coins at such values to be a legal tender in the payment of duties. But in the present scarcity of coin, and amid the various substitutes for money employed in different localities, there was hardly such a thing as a national currency.

With respect to the facility of obtaining occasional temporary loans for the use of the government, the three existing banks, considering their implied engagements to their ordinary customers, could not be relied upon with much certainty; and still less could the aid of private lenders be expected with confidence.

The expediency of establishing a national bank was at that time a very different question from its expediency now. It was a great object at that time to provide, if not a national currency of coin, which, poor as the country then was, seemed quite out of the question, at least its best and only tolerable substitute, a redeemable paper currency. It was also very desirable to extend to the infancy of the new banking system, so vastly superior in all respects to the old system of government paper money, and likely, under wise management, to be so beneficial to trade and industry, that aid and countenance which it might derive from a connection, mutually advantageous, with the national government. At present the government does not need the special aid of banks; nor does the banking system require the fostering support of the government. Indeed, in the extension to which that system has attained, the great necessity of the times seems to be that of a balance-wheel, the constant pressure of which shall keep the banks always in mind of their liability to be called upon for instant redemption. Nor does it appear that any check of that sort has yet been hit upon superior or equal to the steady, uniform, and necessary operation of the exclusive use of specie in the transactions of the government. Nor ought the lesson to be overlooked taught by the experience of the last sixty years; the two great catastrophes in the history of our banking system—the temporary stoppages of specie payments—having both resulted from too in-

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timate a connection on the part of the banks with the national government; in the one case as rash and improvident lenders, in the other case as borrowers no less rash and improvident.

A bill for the charter of a national bank, introduced into the Senate by a committee to which the secretary's report had been referred, and corresponding precisely with his recommendations, encountered but very little opposition in that body. On the third reading, the yeas and nays were twice called; once on a motion to limit the duration of the charter to ten years, which failed, six to sixteen; and again on a motion, lost also, five to eighteen, to strike out the clause restraining Congress from chartering any other bank during the continuance of this. Finally, the bill passed without a division. In the House, it was suffered to pass a second reading, the usual stage of discussion, without opposition; but on the questions of the third reading and the final passage, a warm debate arose. Jackson, Richard Bland Lee, Giles, and Madison spoke against the bill; for it, Lawrence, Sherman, Gerry, Ames, Vining, and Sedgwick. Jackson and Giles attacked the whole policy of the banking system, which they seemed to think little better than a cunningly-devised scheme for enriching the bankers at the expense of the public. Madison confined his objections to the want of power in Congress to pass such a bill. There was no direct grant of any such power, nor could it be implied, so he maintained, from any power expressly granted. It was answered that the power to establish a bank was implied in the powers to collect a revenue and to pay the debts of the United States, and in the authority expressly granted to make all laws necessary and proper for carrying those powers into execution. The terms "necessary and prop-

er," in this connection, could not be restricted to those means only without which the effect could not be produced, but must be understood as comprehending all means adapted to, and commonly employed for, the purpose. A bank was such a means, in reference to revenue transactions, in use by the Continental government previous to the adoption of the Constitution, and well known to the people. This line of argument, the same adopted long afterward by the Supreme Court of the United States, being based on an assumed state of facts liable to change, it would seem to follow, that if the use of a bank should happen, by change of circumstances, to become inexpedient, it would, at the same time, become unconstitutional. So far, indeed, as sentiment and feeling go, always of great weight in political affairs, questions of constitutionality and expediency are always intimately connected. When the expediency of a certain course of policy has been established, arguments in favor of its constitutionality will not be wanting. Hence, too, the opposite practice, already commenced by Virginia, and which soon came to be common to all parties, of denouncing as unconstitutional almost every measure to which opposition was made.

The bill finally passed the House by a vote of thirty-nine to twenty; but, before signing it, the president required the written opinions of the members of his cabinet as to its constitutionality. Hamilton, supported by Knox, was strong in the affirmative; Jefferson and Randolph took the opposite side—the first instance, it would seem, of an important difference of opinion in the cabinet, and forerunner of that decided breach which soon followed.

After due deliberation, the president put his signature to the act. Except in a few particulars of little importance, it conformed to the plan suggested by Hamilton,

**CHAPTER III.** and has served as a model, not only for the second Bank of the United States, to the charter of which Madison 1791. himself afterward placed his signature, but for a great number of state banks also; though by few, if by any, of these state charters was the public security so amply provided for.

The charter was limited to twenty years, for which period Congress renounced the power of establishing any other bank. The capital was to consist of 25,000 shares of \$400 each, amounting in the whole to ten millions of dollars, eight millions to be subscribed by individuals, the other two millions by the United States. Individual subscriptions were payable in four installments, one at the moment of subscription, the others in six, twelve, and eighteen months, one fourth in gold or silver, the other three fourths in stock of the United States, the six per cents. at par, the three per cents. at half that value. The United States were to pay in cash, out of the proceeds of the foreign loans hitherto authorized, but they were to be entitled to a loan from the bank to the amount of their subscription, applicable to the original objects of the foreign loans, and reimbursable in ten annual payments. In other words, while the individual subscribers were obliged to pay up within eighteen months, the United States had the advantage of extending their payments through a period of ten years.

In receiving three fourths of the individual subscriptions in government stocks, there were several objects in view. One was to create a new demand for those stocks, and so to bring them to par, which very soon happened; another was to give the bank a direct interest in sustaining the credit of the government; a third was to provide ample security for the circulation and deposits of the bank, inasmuch as six millions in government

stocks at six per cent. were a far more certain reliance, and a resource more instantaneously available, than the same amount vested in promissory notes and bills of exchange. While the bank would do business on a cash capital of four millions, added to which would be the amount of its deposits and circulation, the depositors and bill-holders would have the security not only of this extra cash capital, but of an additional fund of six millions of dollars invested in government securities. In this particular the new bank was closely modeled after the Bank of England, the greater part of whose capital has always been invested in government stocks. And the same idea has been substantially acted upon in the recent free banking system of New York, by which a deposit of government stocks is required as security for the amount of the circulating bills.

The affairs of the bank, whose head-quarters were to be at Philadelphia, were to be managed by a board of twenty-five directors, chosen annually by the stockholders by a plurality of votes. One share entitled to one vote; three shares to two votes; five shares to three votes; ten shares to five votes; thirty shares to ten votes; sixty shares to fifteen votes; one hundred shares to twenty votes, with a proportional number for intervening amounts. For every ten shares above a hundred an additional vote was allowed; but no single individual or corporation was to be entitled to more than thirty votes. Votes by proxy were allowed, but only in case of residents in the United States. The directors, who must be stockholders and citizens, were to choose a president from among their own number, and, including the president or his special deputy, seven were to constitute a quorum to do business. At least one fourth of the board, exclusive of the president, was to be renewed at every annual election.

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The whole property which the bank could hold, capital included, was limited to fifteen millions of dollars, nor were its debts, exclusive of deposits, ever to exceed ten millions. Should any such excess occur, the directors under whose administration it happened were to be personally liable to that extent, except those who were absent, or who, if present, should dissent from the act creating such excess of debt, and should give immediate notice to the President of the United States, and to a meeting of stockholders, which they were authorized to call for that purpose. Meetings of stockholders might also be called at any time, for purposes relative to the institution, by any sixty stockholders, proprietors together of not less than two hundred shares, by giving ten weeks' notice in two Philadelphia newspapers specifying the object of the meeting. Statements as often as once a week, if required, were to be rendered by the directors to the Secretary of the Treasury, of the amount of capital, debts due the bank, circulation, deposits, and cash in hand; and, so far as related to these matters, the secretary was authorized to inspect the books, but not the accounts of private individuals. The bills or notes of the bank, payable on demand in gold or silver, were made receivable in all payments to the United States.

The bank was forbidden to hold lands or buildings, except such as might be necessary for its own accommodation, or which might come into its hands by the foreclosure of mortgages, or be conveyed to it in satisfaction of debts previously contracted, or be purchased at sales upon judgments for debts due to it. All dealing was prohibited in goods and merchandise of any description beyond the sale of the produce of its lands, or of goods pledged to secure the payment of money and not

duly redeemed. The bank might sell, but could not purchase, the stocks of the United States. Its general business was therefore restricted to dealing in bills of exchange and gold and silver. The interest it might take was limited to six per cent. No loan could be made to the United States exceeding \$100,000, nor to any particular state exceeding \$50,000, nor to any foreign potentate to any amount, unless specially authorized by act of Congress. The directors might establish branches, but only for discount and deposit, at such places within the United States as they might see fit, and might delegate the administration of those branches as they should think proper. Dividends were to be made half yearly, at the discretion of the directors. Once in three years they were to lay before the stockholders an exact statement of debts over-due for a period of three times the original credit, and of the surplus of profits, if any, after deducting losses and dividends.

While these two great measures of the excise and the bank were still under consideration, acts had passed for admitting two new states into the Union, Vermont at once, and Kentucky in the course of the ensuing year.

In the last days of the Continental Congress, Kentucky had applied for admission into the confederacy, that being the condition on which Virginia, after some reluctant struggles, had consented to her organization as an independent state. That application had been referred to the new federal government about to be organized, a delay which had made it necessary to recommence proceedings anew; for the Virginia Assembly had fixed a limitation of time, which, being over-past, drove back the separatists to the original starting-point. On a new application to the Virginia Legislature, a new act had authorized a new Convention, being the third held upon



CHAPTER III that subject, to take the question of separating into consideration. But this act had imposed some new terms

1791. not at all agreeable to the Kentuckians, of which the principal was the assumption by the new state of a portion of the Virginia debt, on the ground of expenses incurred by recent expeditions against the Indians. The
1789. Convention which met under this act proceeded no further than to vote a memorial to the Virginia Legislature requesting the same terms formerly offered. That request was granted, and a fourth Convention was authorized again to consider the question of separation, and should that measure be still persisted in, to fix the day when it should take place. Having met during the last
1790. summer, this Convention had voted unanimously in favor of separation; had fixed the first day of June, 1792, as the time; and had authorized the meeting of a fifth Convention to frame a state Constitution. In anticipation
1791. of these results, an act of Congress was now passed admitting Kentucky into the Union from and after the day above mentioned, not only without any inspection of the state Constitution, but before any such Constitution had been actually formed.

The rapid increase of the population of Vermont having destroyed all hope on the part of New York of re-establishing her jurisdiction over that rebellious district, the holders of the New York grants, seeing no better prospect before them, were ready to accept such an indemnity as might be obtained by negotiation. Political considerations had also operated. The vote of Vermont might aid to establish the seat of the federal government at New York. At all events, that state would serve as a counterbalance to Kentucky, the speedy admission of

1789. which was foreseen. The Assembly of New York had appointed commissioners with full powers to acknowl-

edge the independence of Vermont and to arrange a settlement of all matters in controversy. To this ap-  
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pointment Vermont had responded, and terms had been 1791.  
soon arranged. In consideration of the sum of \$30,000,  
as an indemnity to the New York grantees, New York  
renounced all claim of jurisdiction, consented to the ad- 1790.  
mission of Vermont into the Union, and agreed to the Oct. 7  
boundary heretofore claimed—the western line of the west-  
ernmost townships granted by New Hampshire and the  
middle channel of Lake Champlain. This arrangement  
was immediately ratified by the Legislature of Ver- Oct. 28.  
mont. A Convention, which met at the beginning of 1791.  
the year, had voted unanimously to ratify the Federal Jan. 19.  
Constitution, and to ask admission into the Union. Com-  
missioners were soon after appointed by the Assembly  
to wait upon Congress and to negotiate the admission.  
No opposition was made to it, and within fourteen days Feb. 18  
after the passage of the bill for the prospective admission  
of Kentucky, another act was passed for admitting Ver-  
mont into the Union, from and after the termination of  
the present session of Congress.

The Constitution under which Vermont came into the Union, originally adopted in 1777, had been slightly altered in 1785. Most of its provisions seem to have been copied from the first Constitution of Pennsylvania, with some modifications borrowed from Connecticut. The right of suffrage was given to every man twenty-one years of age, of quiet and peaceable behavior, and a resident in the state for one year preceding the election. The executive power was vested in a governor, or, in case of his death or disability, a lieutenant governor, and twelve counselors annually chosen, the counselors by general ticket. The legislative power was vested in a single Assembly, of which the members were annually

CHAPTER III. elected by the towns. But no act could pass until it had been printed for the consideration of the people; nor till 1791. it had been laid before the governor and council, who had the right to suggest amendments; nor (except in cases of urgent necessity) without laying over one session—a delay, by the revision of 1785, only to take place at the will of the governor and council, in case of the non-adoption of such amendments as they might have proposed. The judicial power was vested in a Supreme Court of five judges, county courts, and probate courts: all judges of all the courts, as well as sheriffs and justices of the peace, to be elected annually by the Assembly. A council of censors, of thirteen members, was to be chosen by the people by general ticket once in seven years, to inquire if the Constitution had been violated, and to suggest amendments to it for the consideration of a convention, which the censors were entitled to call by a two thirds vote. But the proposed amendments must be published six months beforehand, for the consideration of the people.

The first article of the Bill of Rights declared that “no male person born in this country, or brought from over sea, ought to be bound by law to serve any person as a servant, slave, or apprentice after he arrives at the age of twenty-one years, nor female, in like manner, after she arrives at the age of twenty-one years, unless they are bound by their own consent after they arrive at such age, or are bound by law for the payment of debts, damages, fines, costs, or the like.” This provision was contained in the Constitution of 1777, so that neither to Massachusetts nor to Pennsylvania, but to the backwoodsmen of Vermont, the honor belongs of having been the first American state to abolish and prohibit slavery.

The original Bill of Rights of Vermont afforded curi-

ous instances, like so many other American Constitu-  
 tions, of contradictions growing out of an attempted com-  
 promise between the new spirit of religious freedom and  
 the old spirit of religious bigotry. The right of freedom  
 of worship, according to the dictate of every man's con-  
 science and understanding, was copiously insisted upon ;  
 but this conscience and understanding was "to be regu-  
 lated by the Word of God;" nor could any man sit as a  
 member of Assembly who did not sign a declaration of  
 his belief in a God, the Creator and Governor of the uni-  
 verse, the rewarder of the good and the punisher of the  
 wicked, with an acknowledgment of the scriptures of the  
 Old and New Testaments as given by inspiration, and a  
 profession of his Protestant faith—tests principally cop-  
 ied from the Constitution of Pennsylvania, and which in  
 either state would have excluded from the Assembly  
 a very distinguished citizen, Franklin in Pennsylvania,  
 and Ethan Allen in Vermont. While declaring it un-  
 just to compel any man to attend upon any religious  
 worship or to support any minister contrary to the dic-  
 tates of his own conscience, it was yet undertaken so far  
 to regulate consciences as to declare "that every sect or  
 denomination of people ought to observe the Sabbath, and  
 keep up and support some sort of religious worship which  
 to them shall seem most agreeable to the revealed will  
 of God." The revision of 1785 struck out the require-  
 ment of Protestantism ; another revision in 1793, still  
 following the example of Pennsylvania, released the mem-  
 bers of Assembly from the necessity of any religious sub-  
 scription.

The New England usage of schools in every town,  
 supported at the public expense, was made a constitu-  
 tional provision, and the establishment was recommended  
 of county schools and a university. In the townships

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originally granted by the governor of New Hampshire, rights of land of three hundred and forty acres had been reserved for the use of schools, and others for the British Society for the Propagation of the Gospel in foreign parts, which latter, by an act of the Legislature of 1794, were also appropriated to the use of schools. In the townships granted by the State of Vermont, one right had been reserved for town schools and another for county grammar schools. From the proceeds of these lands originated the Vermont school fund. The University of Vermont, established at Burlington in 1791, was endowed by private subscriptions to the amount of \$33,333, nearly half of which was contributed by Ira Allen, a younger brother of Ethan Allen, and, like him, conspicuous in the affairs of the state, of which he has left an historical sketch not without value. The Legislature added a donation of land amounting to nearly fifty thousand acres. The settlement at Burlington, and generally along the lake shores, had only commenced since the peace.

The use of a single Legislative Assembly, originally introduced by Pennsylvania and Georgia, had been already abandoned by those two states. Vermont persisted in it till 1836, when she too so far modified her Constitution as to adopt a senate of thirty members as a part of her Legislature, dispensing at the same time with the Executive Council. A provision contained in the first Constitution, by which each town, irrespective of its population, was to have one representative and no more, still remains in force.

The news of the repulse of Harmer, and of the increasing danger from the Indians on the northwestern frontier, led to the addition to the standing military force of a second regiment of infantry of nine hundred and

twelve men. By the same act the president was authorized to appoint, for such term as he might think proper, a major general and a brigadier general, and to call into service, instead of or in addition to the militia which he was already empowered to call out, a corps of two thousand six months levies, and a body of mounted volunteers. For the support of these troops the sum of \$312,686 was appropriated, which sum the president was authorized to borrow, in case the revenue not otherwise appropriated should prove insufficient to furnish it. The whole of the appropriations for the year 1791 amounted to \$1,205,371, including \$100,000 for the expenses of Harmer's unfortunate expedition, \$20,000 to obtain from the new emperor of Morocco a recognition of the treaty formerly made with his father, and \$48,000 to put the new excise system in operation. To these expenses were to be added interest on the Continental debt, which now became payable, to the amount of about \$2,700,000, exclusive of the interest on the assumed debt, not payable till the next year. The treasury, at the end of the year 1790, had contained a surplus of about \$1,000,000; but as the whole of that surplus, under an act of the previous session, had gone into the hands of the commissioners for the reduction of the public debt, there remained for the current expenses of the year, about \$4,000,000, no resource except the current income and temporary loans.

This act for increasing the army closed the labors of the first Congress—a body, next to the Convention that framed the Constitution, by far the most illustrious and remarkable in our post-Revolutionary annals. On coming together two years before, the new Congress had found the expiring government of the Confederation without revenue, without credit, without authority, influ-

CHAPTER III  
 1791. ence, or respect at home or abroad; the state governments suffering under severe pecuniary embarrassments; and a large portion of the individuals who composed the nation overwhelmed by private debts. Commerce and industry, without protection from foreign competition, and suffering under all the evils of a depreciated and uncertain currency, exposed, also, to serious embarrassments from local jealousies and rivalries, were but slowly and painfully recovering from the severe dislocations to which first the war of the Revolution and then the peace had subjected them. Even the practicability of carrying the new Constitution into effect, at least without making the remedy worse than the disease, was seriously doubted and stoutly denied by a powerful party, having many able men among its leaders, and, numerically considered, including, perhaps, a majority of the people of the United States.

In two short years a competent revenue had been provided, the duties imposed to produce it operating also to give to American producers a preference in the home market, and to secure to American shipping a like preference in American ports. The public debt, not that of the Confederation only, but the great bulk of the state debts, had been funded and the interest provided for, the public credit being thus raised from the lowest degradation to a most respectable position. The very funding of this debt, and the consequent steady and increasing value thus conferred upon it, had given a new character to the currency, composed as it was, in a great measure, of public securities; while steps had been taken to improve it still further by the establishment of a national bank. A national judiciary had been organized, vested with powers to guard the sanctity of contracts against stop-laws, tender laws, and paper money. The practi-

cability and efficiency of the new system had been as fully established as the experience of only two years would admit, and the nation thereby raised to a respectable position in its own eyes and in those of foreign countries. CHAPTER  
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The Senate had unwisely imitated the reserve of the Continental Congress—a reserve necessary in time of war, but contrary to the democratic spirit of American institutions—in transacting their business with closed doors. But the House of Representatives, by opening their doors to reporters and the public, had admitted the people, notwithstanding all the alarm that had been expressed as to the monarchical and aristocratic tendencies of the new government, to a knowledge of national affairs such as they had never before enjoyed. By the newspaper reports, disseminated through the Union, the proceedings of the House became, in fact better known to the people than the doings of their own state Legislatures. These reports were very brief, compared with what we have now, yet sufficient to give a pretty accurate idea of the course of business in the House.

The funding of the public debt, however in particular instances it might have redounded to the enrichment of cunning and sordid speculators, or however deserving sufferers by former public insolvency might have been overlooked, yet in its general operation promoted, to a great, and, indeed, unexpected degree, the public prosperity. By furnishing a capital almost or quite as available as cash, of which enterprise knew how to take advantage, and by the new and powerful impulse thus given to industry, it went far toward relieving that private pecuniary embarrassment which had constituted one of the greatest evils of the times. The newly funded



CHAPTER stocks had all the advantages of the old paper money  
 III issues, without any of their dangers, and with the ad-

1791. ditional advantage of having a value abroad as well as at home—the sale of stocks abroad, urged as one of the great objections to the funding system, being, in fact, one of its chief recommendations—the holders being thus enabled to convert these paper obligations into actual cash.

The great secret of the beneficial operation of the funding system was the re-establishment of confidence; for commercial confidence, though political economists may have omitted to enumerate it among the elements of production, is just as much one of those elements as labor, land, or capital—a due infusion of it increasing in a most remarkable degree the productive activity of those other elements, and the want of it paralyzing their power to a corresponding extent. By the restoration of confidence in the nation, confidence in the states, and confidence in individuals, the funding system actually added to the labor, land, and capital of the country a much greater value than the amount of the debt thereby charged upon them. Commerce and industry, thus buoyed up, had taken a great start. Favorable seasons, the attention given of late to domestic manufactures, the natural reaction from a period of embarrassment and depression, concurred with the revival of confidence, and the new arrangements in favor of trade and industry, to produce a sudden influx of prosperity. The exports rose at once to twenty millions a year, and shipping was increased so rapidly as already to have solved the doubt whether America could supply vessels enough to transport her own productions. To the profitable trade recently opened with India and China had been added another lucrative traffic to the northwest coast of America, a region then almost unknown, now so familiar as California and Ore-

gon. Between this trade and that to China there was a close connection, the great attraction to this coast being the rich furs of the sea otter, purchased for trinkets and sold in China at an immense profit. The ship Columbia, Captain Gray, of Boston, one of the pioneers in this traffic, after exploring with her consort, the sloop Washington, the coast north and south of Nootka Sound, had returned home by the way of Canton and the Cape of Good Hope, thus completing the first American voyage round the world. Already on almost every sea the stripes and stars began to wave. In a second voyage Captain Gray entered for the first time the mouth of the Columbia or Oregon River, an exploration relied upon by the United States, in their controversy with Great Britain many years afterward as to the ownership of that region, as affording a claim of title by discovery.

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## CHAPTER IV.

INDIAN WAR IN THE WEST. FIRST SESSION OF THE SECOND CONGRESS. STATE OF PARTIES. JEFFERSON, ADAMS, AND HAMILTON. FIRST CENSUS. NEW APPORTIONMENT OF REPRESENTATIVES. THIRD TARIFF. MILITIA POST-OFFICE. MINT. JUDICIAL PROCEDURE. REVOLUTIONARY CLAIMS. ELECTORS OF PRESIDENT. CONSTITUTIONS OF KENTUCKY, DELAWARE, AND NEW HAMPSHIRE.

CHAPTER IV. **S**HORTLY after the adjournment of Congress, Washington started on a three months' tour through the 1791. Southern States. If not received with quite the same high-wrought enthusiasm which had marked his journey through New England, he was yet every where entertained with cordiality and respect. Many measures of the government had encountered a warm resistance from the Southern members of Congress. Opposition to the Federal Constitution, which had prevailed so extensively in that region, had gradually taken on the character of opposition to the policy of the administration. Yet Washington found occasion to observe many proofs of the favorable impression on the public mind made by the working of the new system.

In the course of his journey he stopped for several days on the Potomac, taking that opportunity to exercise the authority vested in him of definitively selecting the site of the future seat of government. That selection made, the commissioners entered forthwith upon their duty. The city was laid out on a most magnificent scale, on a plot large enough to accommodate a million

of inhabitants. Many persons from different parts of the Union entered with great zeal into the speculation for building it up, to most of whom, however, the enterprise proved sufficiently disastrous. The owners of the land, confident of growing rich by the enhancement of its value, transferred to the United States not only the ground necessary for streets, and the spaces reserved for public purposes, but one half the lots into which the city plot was laid out, the proceeds to be applied toward the completion of the public buildings. CHAPTER  
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Of all the speculations of the day, and they were numerous, none met with greater favor than the new national bank. Within a few hours after opening the books, the whole amount of the stock was subscribed, with a surplus. In addition to the mother bank, for whose use near half the capital was reserved, branches were established in the principal commercial towns of the Union, thus affording to the government, at the points where the revenue was principally collected, convenient and secure places of deposit, and greatly facilitating transfers from one point to another. July

The strength and dignity added to the American government under its new organization was not without its effect on foreign nations. Great Britain at last condescended to appoint a minister in the person of George Hammond, who delivered his letters of credence not long after Washington's return, and with whom Jefferson, as Secretary of State, presently entered into an elaborate correspondence on the unsettled questions between the two governments—the slaves carried off by the departing British troops, the detention of the Western posts, and the disputed Eastern boundary on the one hand, and, on the other, the stipulations in favor of British creditors, and American adherents to the British cause. Aug

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A new minister was also received from France, the Count de Moustier being superseded by M. de Ternant, 1791. one of whose first applications was to request a supply of money, arms, and ammunition for the relief of the unfortunate island of St. Domingo. The political enthusiasm then prevailing in the mother country, added to the vacillating and conflicting decrees of the French National Assembly on the subject of citizenship, had given rise in that island to a warm controversy, not without bloodshed, as to the political rights of the free mulattoes, a class quite considerable in point of numbers, and containing some persons not without property and education. Nor was this claim of equal rights long confined to the mulattoes alone. The slaves in the neighborhood of Cape François, the northern district of the island, ten times more numerous than the whites and mulattoes united, had suddenly risen in insurrection, destroying all the sugar plantations in the fertile plain of the cape, and threatening the city itself with destruction. Fugitives from this scene of desolation already began to arrive in the United States. The supplies Sept. asked for by Ternant toward the suppression of this rebellion were readily granted, in expectation of a reimbursement out of the sums due to France.

Thomas Pinckney, of South Carolina, was presently Dec. appointed minister to England. Gouverneur Morris was commissioned at the same time as minister to France. Short, who had acted as chargé des affaires at that court, was sent to Holland as resident minister, and appointed also, about the same time, joint commissioner with Carmichael to negotiate with Spain respecting the navigation of the Mississippi. Early in the year Humphreys had been commissioned as resident minister at the court of Portugal, and Barclay as consul to Morocco, to obtain

a recognition from the new emperor of the treaty formerly negotiated with his father. A confidential agent had also been sent to Florida, to negotiate with the Spanish governor on the subject of fugitive slaves. CHAPTER  
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To the generally promising state of affairs there was one serious drawback. The unsettled condition of Indian relations on the Western frontier had been not a little aggravated by Harmer's repulse, and by events of subsequent occurrence. Immediately after the passage of the act for increasing the army, St. Clair, governor of the Northwestern Territory, had been commissioned as major general, and steps had been taken for raising the new regiment and the levies, the command of which was given to General Butler. As some delay would occur before these new troops could be ready, an expedition was organized in the mean time, consisting of five hundred mounted volunteers from Kentucky, led by General Scott. Having crossed the Ohio near the mouth of the Kentucky River, Scott proceeded northwardly through the wilderness, and crossing on his march the branches of the White River, reached at length the villages on the Wabash. Fifty-eight prisoners were taken, and several warriors were killed, but the greater part of the Indians succeeded in escaping. A detachment under Wilkinson, who was second in command, was sent against the Kickapoo village, eighteen miles distant; but there, too, most of the inhabitants escaped. The village, consisting of about seventy houses, was burned, and with it a quantity of corn, peltry, and other goods. Many of the houses, which were well finished, seemed to be inhabited by Frenchmen, and the books and papers found in them evidently showed a close connection with Detroit. May 1/  
June 1

While preparations were making to subdue the Indians by force, negotiation was not neglected. Corn-

CHAPTER planter, a friendly chief of the Senecas, who had visited  
IV. Philadelphia during the winter, undertook to act as a

1791. mediator with the hostile tribes. But this project encountered many obstacles on the part of Brant and Red Jacket, two other leading chiefs of the Six Nations, who, though pretending to be friendly, were believed to be acting under British influence. The British commander at Fort Erie, unwilling, apparently, that peace should be made except by British interference, would not allow the charter of a schooner in which to proceed to Sandusky to open a communication with the hostile tribes; and so Cornplanter's mediation became unavailable. There was, indeed, reason to fear that even the Senecas themselves might be led to take part in the pending hostilities. Already they repented of the vast cessions made to Phelps and other purchasers of pre-emption rights under Massachusetts, upon which settlements were beginning to be formed. Attempts by Morris and Ogden to obtain additional cessions aggravated these discontents; and uneasiness was still further increased by the leases which they had been induced to make of parts of their reservations. Timothy Pickering, appointed commissioner for that purpose, met the Senecas and other tribes of the Six Nations at Painted Post, now Corning, on June. the Chemung, a northwest branch of the Susquehanna; and this interview had a good effect toward appeasing the discontents of those tribes, and preventing them from co-operating with the hostile Indians. A new attempt at mediation was even promised by Hendricks, a chief of the Stockbridge Indians, who were now settled among the Six Nations; but this, too, failed, like the former one.

Fears were even entertained that the Southern tribes might be led to take part in the war. Projects were or

foot, based on the late purchases made from Georgia, for two settlements, one near the Muscle Shoals of the Tennessee, the other further west, on the lands of the Choc-  
 taws, both of which were likely to give great offense to the Indians. The Cherokees still complained of encroachments on their lands, but were quieted for the present by a treaty negotiated by Blount, the governor of the Territory south of the Ohio, by which an annuity was secured to them of \$1000 as a compensation for the lands occupied by white intruders. In his private correspondence, Washington expressed the opinion that there was little hope of settled peace with the Indians so long as the spirit of land-jobbing prevailed, and the frontier inhabitants entertained the opinion that it was a less crime to kill an Indian than a white man, or, rather, no crime at all.

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A second expedition of Kentucky mounted volunteers, led by Wilkinson against the tribes on the Wabash, had nearly the same results as the former one. Another village was burned, a few warriors were killed, some thirty prisoners were taken, and several hundred acres of growing corn were destroyed. But it was not by such desultory efforts that the Indians could be brought to submission.

Aug.

The season was already advanced before St. Clair's army was ready to take the field. The whole force of regulars and levies able to march from Fort Washington did not much exceed two thousand men ; but some reinforcements of Kentucky militia were expected to join. The object of the campaign was to establish a line of posts sufficient to maintain a communication from the Ohio to the Maumee, the intention being to build a strong fort on that river, and to leave in it a garrison of a thousand men, large enough to send out detachments and to

Sept 1:



CHAPTER keep the neighboring Indians in awe. Twenty-four miles  
IV. north of Fort Washington, under whose guns the infant

1791. city of Cincinnati was slowly rising, Fort Hamilton was built on the Miami; and forty-four miles further north, Fort Jefferson, near the present dividing line between the states of Ohio and Indiana. Several hundred Ken-

Oct. 24. tucky militia having joined the army, the march for the Maumee was presently resumed. These militia, composed mostly of substitutes, were regardless of discipline and totally ungovernable. The levies also, who had been supplied with very inferior clothing, were in a discontented state, and the term of that part of them who had been earliest enlisted was just about to expire. As a road had to be opened, and as supplies of provisions were very irregularly furnished by the contractors, the progress of the army was exceedingly slow. A week

Oct. 31. after the advance from Fort Jefferson, sixty of the militia deserted in a body. Lest these deserters might plunder the approaching trains of provision wagons, and thus still further delay the march, that part of the first regiment employed in the expedition was detached to meet the wagons and escort them to the camp. Piamingo, the Mountain Leader, with a band of Chickasaw warriors, had hitherto attended the army; but these auxiliaries now withdrew, as if foreseeing the probable result. Reduced by garrisons and detachments to fourteen hundred effective men, after two weeks spent in an advance of twenty-nine miles from Fort Jefferson, the expedition reached at length the southeasternmost head waters of the Wabash, which St. Clair seems to have mistaken for those of the St. Mary's, a tributary of the Maumee. A few Indians were seen, but they fled with precipitation, and the day being nearly spent, the troops encamped, the regulars and levies in two lines, covered by the stream,

the militia about a quarter of a mile in advance on the other side of it. CHAPTER IV.

Early the next morning, about sunrise, just as the troops were dismissed from parade, the camp of the militia was suddenly attacked. The regulars who composed the first line on the other side of the stream formed at the first alarm; but the flying militia, rushing pell-mell upon them, threw them into disorder. Closely following up the fugitives, and taking advantage of this confusion, firing from the ground or the shelter afforded by the scattered trees and bushes, and scarcely seen except when springing from one covert to another, the Indians advanced in front and on either flank close upon the American lines, and up to the very mouths of the field-pieces, from which the men were repeatedly driven with slaughter. The front line of regulars never recovered from its first confusion. The second line made several charges with the bayonet, before which the Indians gave way; but they soon rallied, and renewed the attack as fiercely as ever. In these charges many officers fell—General Butler, among the rest, with a mortal wound. The Indians had gained the left flank of the encampment. Half the force had already been killed or disabled. The survivors flocked together in crowded confusion, and were shot down almost without resistance. The artillery was left without a man to work the guns. St. Clair lay helpless in his tent, suffering from severe disease, and not able to mount his horse without assistance. A large proportion of the officers had already fallen in their attempts to rally and lead on their men. It was apparent that nothing but instant retreat could save the remnant of the army from total destruction. The shattered troops were collected toward the right of the encampment; a charge was made, as if to turn the right flank of the en-

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CHAPTER IV. enemy; the road was gained; the militia took the lead:

1791. and Major Clarke, with his battalion of regulars, covered the rear. The retreat was most disorderly; in fact, a precipitate flight. Not only were the baggage and artillery abandoned, but the greater part of the men threw away their arms and accouterments. The Indians soon gave over the pursuit; but the flying troops did not stop till they reached Fort Jefferson, where they arrived about sunset completely exhausted, one day's flight having carried them over the space of a fortnight's advance. Here the first regiment was found about three hundred strong. Its presence in the field, in St. Clair's opinion, would not have altered the fortune of the day, as the troops possessed too little discipline to recover from their first confusion, while its destruction would have completed the triumph of the enemy, and left the frontier without any organized defense. There was no sufficient supply of provisions at Fort Jefferson, and, leaving the wounded there, the army fell back to Fort Washington, its point of departure. The loss in this disastrous enterprise amounted to upward of nine hundred men, including fifty-nine officers. The killed reached the unusual proportion of six hundred. Of the force and loss of the Indians no very distinct account was ever obtained. They were supposed to have numbered from a thousand to fifteen hundred, including a proportion of half-breeds and refugees, among them the notorious Simon Girty, active, for many years past, in the war against Kentucky. The principal leader was said to have been Little Turtle, a chief of the Miamis, who had led in the attack on Harmer the year before.

The repulse of St. Clair produced the greatest alarm on the whole northwestern frontier, extending even to Pittsburg; but the Indians failed to follow up their ad-

vantage. About two months after the battle, Wilkin-  
 son, who had meanwhile been appointed to command the  
 second regiment, marched from Fort Jefferson, with two  
 companies of regulars and a hundred and fifty mounted  
 volunteers, to visit the field. Though covered with snow  
 a foot deep, it presented a horrid spectacle. The dead  
 were buried; one piece of cannon was brought off; the  
 carriages of the other pieces remained, but the guns them-  
 selves were not to be found. There was not a tree or  
 bush in the neighborhood not marked by musket-balls. No  
 Indians any where appeared. Yet, during Wilkinson's  
 absence from Fort Jefferson, a party of the garrison, hav-  
 ing wandered a mile or two from the fort, had been set  
 upon, and several of them killed.

On the very day that St. Clair set out on his unfor-  
 tunate march from Fort Jefferson, the second Congress,  
 in conformity to an act of the last session, anticipating  
 the usual day of meeting, had assembled at Philadelphia.  
 Though the greater part of the retiring senators had been  
 re-elected, some changes had taken place in that body.  
 Preferring to confine himself to his duties as President  
 of Columbia College, Johnson had resigned, and his seat  
 as senator from Connecticut was filled by the venerable  
 Sherman. Another new member was George Cabot, of  
 Massachusetts, since Bowdoin's recent death the most  
 distinguished merchant of New England. Bred origin-  
 ally a ship-master, by sagacity in mercantile matters he  
 had acquired an ample fortune, and being much more  
 than a mere merchant, endowed with a vigorous and  
 comprehensive understanding, at the same time a reader  
 of books and an observer of men, few persons were better  
 qualified for the difficult task of judicious legislation.  
 Moses Robinson, once governor and repeatedly chief just-  
 ice of Vermont, appeared as one of the senators for that

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CHAPTER new state; the other was Stephen W. Bradley, long a  
IV. very active politician. But the most remarkable of the

1791. new senators was Aaron Burr, of New York, successor to General Schuyler. There was a majority of Federalists in the New York Assembly sufficient to have secured the re-election of Schuyler; but the plain, downright, and not very ceremonious manners of the old general placed him at decided disadvantage when compared with the artful, affable, and fascinating Burr. In the late gubernatorial contest Burr had supported the anti-Clintonian candidate, and he doubtless succeeded in satisfying the Federalists that he, as well as Schuyler, was on their side. Burr's grandfather was a German, who had settled originally in Fairfield, in Connecticut; his father, minister of Newark, in New Jersey, was the first President of Princeton College; his mother was a daughter of the celebrated Jonathan Edwards. After graduating at Princeton at an early age, he had commenced the study of the law; but the war of the Revolution breaking out, he had joined the camp before Boston, and had followed Arnold in his expedition to Canada. Montgomery appointed him an aid-de-camp, and he stood at that general's side when he was killed in the assault on Quebec. He was afterward an aid-de-camp to Putnam, in which capacity he served during the retreat from New York. Upon the organization of the permanent army he was so fortunate as to obtain the command of one of the New York battalions. Not thinking himself sufficiently noticed by Washington, who seems to have early penetrated his character, he conceived a bitter hostility against the commander-in-chief, and actively participated in the intrigue of Conway and Mifflin. He also sided with Lee in the difficulty growing out of the battle of Monmouth, in which engagement Burr bore a part. After

two active campaigns he resigned his commission and recommenced the study of the law, upon the practice of which he entered at New York shortly after its evacuation by the British. An act had been passed by the Legislature just before the peace, and in anticipation of it, disqualifying from practice all attorneys and counselors who could not produce satisfactory certificates of Whig principles. This law remained in force for three or four years, and it enabled Burr, Hamilton, and other young advocates to obtain a run of practice which otherwise they might not have reached so early. Hamilton was indeed a very able lawyer, but Burr, though regarded as his rival, seems to have trusted more to subtleties, finesse, and nice points of technicality than to any enlarged application of more generous legal principles. He was soon elected to the state Legislature; but that post he did not long retain, having given offense to his constituents on some local question. Governor Clinton appointed him Attorney General, possibly with a view to conciliate a man whose political talent and influence were already distinguished. Clinton professed, indeed, not to be influenced in his appointments to office by personal or party considerations, to which profession he acted up with more consistency than is always displayed by those who make it. The election of Burr to the Senate of the United States was perhaps a counterbid from the Federal side.

In several of the states the election of members of the House had been warmly contested, and the number of those opposed to the prevailing policy had been somewhat increased. Yet a large proportion of the old members had been rechosen: from New Hampshire, Livermore; from Massachusetts, Gerry, Ames, Goodhue, and Sedgwick; from Connecticut, Trumbull and Wadsworth;

CHAPTER from New York, Lawrence and Benson ; Boudinot from  
 IV. New Jersey ; Fitzsimmons, Hartley, and Frederic H.

1791. Muhlenburg from Pennsylvania ; Vining from Delaware ; Madison, Page, Giles—indeed, all the old members from Virginia, with a single exception ; Williamson from North Carolina ; Smith, Sumter, and Tucker from South Carolina ; and Baldwin from Georgia. Among the new members were Artemas Ward, of Massachusetts, commander-in-chief of the Massachusetts army of 1775, and first Continental major general ; William Van Murray, of Maryland ; James Hillhouse, of Connecticut ; Jonathan Dayton and Abraham Clark, of New Jersey, the latter one of the signers of the Declaration of Independence ; William Findley and Andrew Gregg, of Pennsylvania ; and Nathaniel Macon, of North Carolina. Anthony Wayne, who had lately removed to Georgia, had been returned as one of the representatives of that state, in place of the voluble and impetuous Jackson. But Jackson petitioned against the return, in which he was supported by a vote of the Georgia Assembly, who ordered proceedings forthwith against certain parties accused of malpractice in the matter, some of whom were subjected to punishment. Toward the close of the session, Wayne was unanimously deprived of his seat ; but an attempt to give it to Jackson failed by the speaker's casting vote, and a new election was ordered.

Muhlenburg, the Speaker of the first Congress, was a member of this, but the chair was given to Trumbull of Connecticut, perhaps on the principle of rotation in office. The president, in his speech, congratulated Congress on the prosperity of the nation, the productiveness of the revenue, and the disposition generally evinced to submit to the new excise duties. He announced the selection of a site for the federal capital on both sides of

the River Potomac, on the north bank of which the new federal city was already laid out. The organization of the militia, the reorganization of the post-office department, the establishment of a mint, uniformity of weights and measures, and a provision for the sale of the vacant lands of the United States, were again pressed upon the attention of Congress. The president also dwelt at length upon Indian affairs, and upon a just, impartial, and humane policy toward the Indian tribes as essential to the establishment and maintenance of peace on the frontiers.

That same modification of political parties which had taken place throughout the country soon made itself apparent in the new Congress. The Federalists, from being mere supporters of the Federal Constitution, had become supporters of the particular scheme of policy recommended by the Secretary of the Treasury, and carried into effect by the first Congress. The anti-Federalists, on the other hand, dropping their late objections to the Constitution, had subsided, for the most part, into opponents of Hamilton and his financial system. This party, a minority in the House, and yet more so in the Senate, found, however, an able coadjutor, and even a leader, in the very bosom of the cabinet, where a conflict of opinions upon points both theoretical and practical, not un-mixed with strong personal jealousies, had already begun to show itself.

Gifted by nature with a penetrating understanding, a lively fancy, and sensibilities quick and warm; endowed with powers of pleasing, joined to a desire to please, which made him, in the private circle, when surrounded by friends and admirers, one of the most agreeable of men; exceedingly anxious to make a figure, yet far more desirous of applause than of power; fond of hypothesis,



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inclined to dogmatize, little disposed to argument or controversy, impatient of opposition, seeing every thing so

1791. highly colored by his feelings as to be quite incapable of candor or justice toward those who differed from him ; adroit, supple, insinuating, and, where he had an object to accomplish, understanding well how to flatter and to captivate ; led by the warmth of his feelings to lay himself open to his friends, but toward the world at large cautious and shy ; cast, both as to intellect and temperament, in a mold rather feminine than masculine, Jefferson had returned from France, strengthened and confirmed by his residence and associations there in those theoretical ideas of liberty and equality to which he had given utterance in the Declaration of Independence.

During his residence in Europe, as well as pending the Revolutionary struggle, Jefferson's attention seems to have been almost exclusively directed toward abuses of power. Hence his political philosophy was almost entirely negative—its sum total seeming to be the reduction of the exercise of authority within the narrowest possible limits, even at the risk of depriving government of its ability for good as well as for evil ; a theory extremely well suited to place him at the head of those who, for various reasons, wished to restrict, as far as might be, the authority of the new general government.

Though himself separated from the mass of the people by elegance of manners, refined tastes, and especially by philosophical opinions on the subject of religion, in political affairs Jefferson was disposed to allow a controlling, indeed absolute authority to the popular judgment. The many he thought to be always more honest and disinterested, and in questions where the public interests were concerned, more wise than the few, who might always be suspected of having private purposes of their own to

serve. Hence he was ever ready to allow even his most cherished theoretical principles to drop into silence the moment he found them in conflict with the popular current. To sympathize with popular passions seemed to be his test of patriotism; to sail before the wind as a popular favorite, the great object of his ambition; and it was under the character of a condescending friend of the people that he rose first to be the head of a party, and then the chief magistrate of the nation.

The two men who stood most immediately and obviously in Jefferson's way were John Adams, the vice-president, and Hamilton, the Secretary of the Treasury; men in character, temperament, and opinions as different from him as they were from each other. By dint of untiring energy, seconded by great natural abilities, and an unextinguishable thirst for eminence which brooked no superior and hardly an equal, Adams had risen from the condition of a country lawyer, the son of a poor farmer and mechanic, through various grades of public service, to the eminence which he now held. Nor did his aspirations stop short of the highest distinction in the power of the nation to bestow. Having risen by no paltry arts of popularity or intrigue, for which he was but little fitted, nor by any captivating charm of personal manners, which he was very far from possessing, but owing every thing to the respect which his powerful talents, his unwearied labors, and his great public services had inspired, he still desired to be what he always had been, a leader rather than a follower, rather to guide public opinion than merely to sail before it. He, too, had his political theories, very different from those of Jefferson—theories which he had not hesitated to set forth with a frankness very dangerous to his popularity. Alarmed at the leveling principles, as he esteemed them, to which the prog-

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ress of the French Revolution had given rise, he had  
1791. lately published, in Fenno's United States Gazette, a  
series of "Discourses on Davilla," in which his political  
views were enforced and explained, not a little to the  
disgust of Jefferson and others, who professed peculiar re-  
gard for popular rights. Taking the history of nations,  
particularly Davilla's account of the French civil wars,  
and the aspect of society, as his text, Adams pointed out  
as the great spring of human activity, at least in all that  
related to politics, the love of superiority, the desire of  
distinction, admiration, and applause. Hence, in all so-  
cieties, perpetual struggles for power; nor, in his opin-  
ion, could any form of government be permanent or se-  
cure which did not provide as well for the reasonable  
gratification as for the due restraint of this powerful pas-  
sion. As a means toward gratifying it in a harmless  
way, Adams was inclined to favor a liberal use of titles  
of honor and other ceremonious distinctions; and on this  
same ground he vindicated the institution of a senate,  
seats in which might serve as a legitimate object of am-  
bition to the rich and well-born. To counteract the en-  
croachments of this aristocratical body, a popular assem-  
bly on the broadest basis would be necessary; and, to  
hold the balance between the two, and to prevent the  
one from gradually encroaching upon and ultimately an-  
nihilitating the other, a powerful executive. Only by  
means of such an equilibrium of authority, as it seemed  
to him, could liberty be secure, and in establishing and  
maintaining such a balance consisted the great art and  
science of government. Whether the frequent elections  
of governors and senators, adopted under the American  
Constitutions, would not rather serve as an avenue to  
corruption instead of excluding it, as the theory was,  
Adams seemed greatly to doubt, and to incline to the

opinion that the time would come when hereditary descent would be regarded as less an evil than annual fraud, if not violence also. Even in New England, as he pointed out, communities and governments the most democratic in the world, the influence of family and the claim to hereditary respect had been recognized in the political honors freely bestowed by annual election, through successive generations, on members of a few distinguished families, to which the higher offices had been chiefly restricted.

On the basis of these principles Adams had concluded that the new French Constitution, which disavowed all distinctions of rank, which vested the legislative authority in a single assembly, and which, though retaining the office of king, stripped it of a large portion of its power, could not be lasting. As to Paine's "Rights of Man," an American edition of the first part of which had just been published, prefaced by a very complimentary note from Jefferson, not without an evident slur at the political heresies of the Discourses on Davilla, Adams declared that he held that pamphlet in utter detestation. Nor was it long before a criticism upon it, under the signature of "Publicola," made its appearance in a Boston paper, written by John Quincy Adams, son of the vice-president, but which rumor ascribed to the vice-president himself. In the promising talents of that son, in energy and labor not inferior to his father, though in some other respects much below him, Adams could hardly fail to see additional ground for his idea, that hereditary distinctions were but in conformity to the order of nature.

In this theory of politics Adams seems entirely to have overlooked one most important consideration. If the love of superiority and distinction leads to the institution of ranks and orders, that very same sentiment

CHAPTER IV. diffusing itself through the mass of the people, produces  
impatience of the superiority of others, and a disinclination to submit to that inferiority which the existence of ranks and orders implies. Hence it would seem to follow that, in a country like America, where the sentiment of political equality was so widely diffused, any thing approaching to a distinction of ranks was quite out of the question, democratical equality being, in fact, only a further development of the effects of that very same sentiment out of which aristocratical distinctions originally grow.

Much less of a scholar or a speculatist than either Jefferson or Adams, but a very sagacious observer of mankind, and possessed of practical talents of the highest order, Hamilton's theory of government seems to have been almost entirely founded on what had passed under his own observation during the war of the Revolution and subsequently, previous to the adoption of the new Constitution. As Washington's confidential aid-de-camp, and as a member of the Continental Congress after the peace, he had become very strongly impressed with the impossibility of duly providing for the public good, especially in times of war and danger, except by a government invested with ample powers, and possessing means for putting those powers into vigorous exercise. To give due strength to a government, it was necessary, in his opinion, not only to invest it on paper with sufficient legal authority, but to attach the most wealthy and influential part of the community to it by the ties of personal and pecuniary advantage; for, though himself remarkably disinterested, acting under an exalted sense of personal honor and patriotic duty, Hamilton was inclined, like many other men of the world, to ascribe to motives of pecuniary and personal interest a somewhat greater

influence over the course of events than they actually possess. Having but little confidence either in the virtue or the judgment of the mass of mankind, he thought the administration of affairs most safe in the hands of a select few ; nor in private conversation did he disguise his opinion that, to save her liberties from foreign attack or intestine commotions, America might yet be driven into serious alterations of her Constitution, giving to it more of a monarchical and aristocratical cast. He had the sagacity to perceive, what subsequent experience has abundantly confirmed, that the Union had rather to dread resistance of the states to federal power than executive usurpation ; but he was certainly mistaken in supposing that a president and senate for life or good behavior, such as he had suggested in the Federal Convention, could have given any additional strength to the government. That strength, under all elective systems, must depend on public confidence, and public confidence is best tested and secured by frequent appeals to the popular vote.

Hardly was Jefferson warm in his new office as a member of the cabinet, when he appears to have adopted the idea, founded, it would seem, on casual expressions of speculative opinion dropped in the freedom of unreserved social intercourse, that a conspiracy was on foot, headed by Adams and Hamilton, to overturn the republican institutions of the United States, and to substitute a monarchy and an aristocracy in their place, the monarchy being principally patronized by Hamilton and the aristocracy by Adams, and both being inclined to give to the wealthier and more intelligent few a very disproportionate influence in the government.

Though a great advocate for toleration and liberality in matters of religion, in politics Jefferson was a com-

CHAPTER IV. plete bigot. One single speculative error outweighed, in his estimation, the most devoted patriotism, the most unquestionable public services. Assuming to himself the office at once of spy and censor on his colleagues, he adopted the practice of setting down in a note-book every heretical opinion carelessly dropped—every little piece of gossip reported to him by others which might tend to convict his associates in the cabinet of political infidelity—anecdotes recorded, not as instances of the speculative errors into which the wisest and the best may fall, but carefully laid up as evidences against political rivals of settled designs hostile to the liberties of their country. Nor was he content with merely making this remarkable record. After the lapse of twenty-five years or more, “when the passions of the times were passed away, and the reasons of the transactions act alone upon the judgment,” such is his own account of the matter, he gave the whole a “calm perusal,” and having cut out certain parts because he had ascertained that they were “incorrect or doubtful,” or because they were “merely personal or private,” he prefixed a characteristic preface to the rest, and left them to be published after his death, as proofs of the services he had rendered to his country in saving it from a monarchical and aristocratical conspiracy. It was against Hamilton that the bitterness of a hatred at once personal and political was most keenly directed. The splendid reputation gained by the success of Hamilton’s financial measures, fixing all eyes upon him as the leading spirit of the government, though Jefferson nominally held the first place in the cabinet; his great popularity thereby acquired with the mercantile and moneyed class; more than all, his weight and influence with Washington, excited in the mind of Jefferson a most violent antipathy,

partly growing out of mere personal jealousy, partly based on imagined dangers to the liberties of the country—who can tell in what precise proportions? All the measures adopted on Hamilton's recommendation, even those which he had himself concurred to bring about—as in the case of the assumption of the state debts—began to be seen by Jefferson through a most discolored medium. Overlooking the justice and the expediency of a provision for the national creditors, and the great benefits to the country at large resulting from that measure, in his private correspondence, on which he principally relied for the diffusion of his political ideas, he already began to denounce the entire funding system, especially the assumption of the state debts, as a mere piece of jugglery and corruption, intended to purchase up friends for the new government, and especially for Hamilton, and designed to pave the way toward an aristocracy and a monarchy. The recently chartered bank was denounced with no less vehemence as another step in the same direction. All these measures had been warmly opposed by a minority of the late Congress, many of whom, with some others inclined to the same opinions, had been elected to the new one; and of this minority Jefferson soon came to be the out-of-door leader, as Hamilton was of the majority. That majority, or, at least, an undefined portion of it, including some of the most eminent names in American history, Jefferson and his friends did not hesitate to denounce as a “corrupt squadron,” actually bought up by the Secretary of the Treasury, or, at least, secured to his service, by being enabled, through his means, to enrich themselves by unwarrantable speculations in the public stocks, and ready, at all times, to sell themselves and their country for the privilege of public plunder. Abjuring the name of anti-CHAPTER  
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CHAPTER IV. Federalists—for the Federal Constitution was growing every day more popular—Jefferson and his friends of the 1791. opposition assumed to themselves the title of REPUBLICANS, as if they alone were the true friends of republican government, while they sought to fix on the Federal leaders the stigma of being monarchists and aristocrats. Shortly after the meeting of Congress, to counteract the influence of Fenno's Gazette, considered to be at the beck of the Treasury, and in which Adams's Discourses on Davilla were published, an opposition journal was got up, called the "National Gazette," edited by Philip Freneau, formerly a classmate of Madison's at Princeton College, known as a writer of fugitive verses and other pieces of a satirical character. Though Jefferson disclaimed any connection with this paper, he gave to Freneau, about the time that its publication began, the place of translating clerk in his office. The salary was but a trifle; but then this place was the only piece of patronage in Jefferson's gift, who contrasted, not without some feeling, his position in this respect with that of Hamilton, who had so many collectorships, supervisorships, and other lucrative posts to dispose of. The new paper, not without wit as well as malice, began with throwing out slurs at Adams and Hamilton, the "corrupt squadron," the funding system, and treasury influence. Very soon it became, as Hamilton presently described it, "intemperately devoted to the abuse of the government and all the conspicuous actors in it, except the Secretary of State and his coadjutors, who were the constant theme of its panegyric."

Parties in the new Congress still retained, in a great measure, their originally geographical character. The opposition members were mostly from the Southern States, particularly Virginia and North Carolina. But

party lines were not, as yet, very definitely drawn, and there were a considerable number of members who occupied an intermediate position, voting sometimes on one side and sometimes on the other. CHAPTER  
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The first subject which engaged attention was the reapportionment of representatives, according to the census just completed. The following table shows the result of that census, together with the number of representatives allotted to each state under the new distribution :

Representatives.	States.	Free white males of 16 years and upward.	Free white males under 16 y'm.	Free white females.	All other persons, exc'pt Indians, not taxed.	Slaves.	Total.
19	Virginia .....	110,936	116,135	215,056	12,866	292,627	747,610
14	Massachusetts, with Maine }	119,837	112,037	237,452	6,001		475,327
13	Pennsylvania .....	110,788	106,948	206,363	6,537	3,737	434,373
10	New York .....	84,700	78,122	152,320	4,654	21,324	340,120
10	North Carolina ...	69,988	77,506	140,710	4,975	100,572	393,751
8	Maryland .....	55,916	51,339	101,395	8,043	103,036	319,728
7	Connecticut .....	60,593	54,403	117,448	2,808	2,764	237,946
6	South Carolina ...	35,576	37,722	56,880	1,801	107,094	240,073
5	New Jersey .....	45,251	41,416	73,287	2,762	11,423	184,139
4	New Hampshire ...	36,086	34,851	70,160	630	158	141,885
2	Vermont .....	22,335	22,328	40,505	225	16	85,539
2	Georgia .....	13,103	14,044	25,739	398	29,264	82,548
2	Kentucky .....	15,154	17,057	28,922	114	12,430	73,677
2	Rhode Island .....	16,119	15,799	32,652	3,407	948	68,825
1	Delaware .....	11,783	12,143	22,384	3,899	8,887	59,094
	Territory south of the Ohio }	6,271	10,227	15,365	361	3,417	36,691
	Northwest Territory, no return: only a few hundred inhabitants.						
05	Totals .....	814,396	802,077	1,536,638	59,481	697,697	3,921,326

The smallness of the House of Representatives had furnished one great topic of complaint to the opponents of the Federal Constitution ; yet to increase the number would increase the expense, and the expense of the new system had also been a great matter of complaint with the party in opposition. It was resolved, however, to make the number as large as possible by adopting a ratio of thirty thousand, the lowest which the Constitution admitted. As the bill first passed the House, a dis- Nov. 24  
tribution was agreed upon, giving a total of one hundred

CHAPTER and thirteen members, but leaving large unrepresented  
IV. fractions in several of the Northern States. The Senate

1791. sent back this bill so amended as to raise the ratio to  
Dec. 7. thirty-three thousand, with the avowed intention of diminishing the fractions. In the House, Williamson complained that if this amendment decreased the fractions in the Northern States, it increased those of the South; to which Sedgwick answered, that the ratio proposed by the Senate would produce smaller fractions than any other number, from thirty to forty thousand inclusive, and that the fraction of only one state was increased by it. Boudinot adverted to the advantage possessed by the Southern States in the representation allowed them by reason of their slaves. He would not interfere with the Constitution on that point, but every dictate of justice and equality was opposed to giving any additional advantage to the South. Hillhouse and Ames complained of the unequal operation on the small states of the ratio originally proposed by the House, under which Virginia had as many representatives as six smaller states, which, together, exceeded her in federal population to the amount of seventy thousand, while the five larger states acquired between them seven representatives beyond their fair proportion. Giles, with Venable, the new member from Virginia, replied, that, taking both houses together, the smaller states had a very great preponderance in their favor. The House refused to accede to the amendment of the Senate; but the Senate insisted upon it by the casting vote of the vice-president, and, as the House declined to recede, the bill by this disagreement was lost.

A second bill passed by the House adopted the same ratio of thirty thousand, and provided for a new census and a new distribution previous to the termination of the next following Congress. The Senate struck out all

that part relating to a new census, and increased the whole number of representatives to one hundred and twenty, by allowing a representation to the larger fractions. The same idea had been suggested in the House; but Madison had opposed it as unconstitutional, on the ground that the restriction of one representative to thirty thousand inhabitants was intended to apply to the states individually, and not to the total number of inhabitants.

After a very warm debate in the House, in which threats of dissolving the Union were freely uttered, the amendment of the Senate was disagreed to, thirty-one to thirty, and a Committee of Conference was asked. This conference produced no result, and the Senate still insisting on their amendment, the House finally agreed to it, thirty-one to twenty-nine—a vote almost entirely geographical, the North in favor of concurrence, the South against it.

The bill having been sent to the president, he took the opinions of his cabinet as to its constitutionality. Jefferson and Randolph thought it decidedly unconstitutional. Hamilton and Knox thought that matter rather doubtful, but, on the whole, advised to sign the bill. With some hesitation, lest he might appear to be acting under sectional influence, Washington sent back the bill with objections to it, based on the ground of its unconstitutionality; and, upon reconsideration, it was lost, thirty-three votes against it to twenty-eight for it.

A third bill was then introduced, which speedily passed both houses, conforming to the original proposition of the Senate for a ratio of thirty-three thousand, thus giving a house of a hundred and five members. At the return of every succeeding ten years during the next half century the precise ratio of representation became a matter of warm discussion, it being scarcely possible to fix on

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CHAPTER any number which did not operate unequally on some  
IV. states. At the end of that period the former decision on  
1792. the constitutional point was set aside, and the policy was  
adopted of allowing representatives to the larger fractions.  
In the act providing for the census of 1850, an obvious  
and simple expedient was hit upon for preventing a repetition of these tedious and unprofitable contests, the number of the House being fixed beforehand, and the ratio thus made dependent upon that.

The news of the defeat of St. Clair by the Indians produced so much alarm on the western frontier, that the Legislatures of Pennsylvania and Virginia made provision for raising state troops for immediate defense. A detailed report from the War Department on the state of the frontier, and the origin and progress of the Indian hostilities, having been laid before Congress, a bill was  
Jan 21. introduced in accordance with its recommendations, and presently passed (though not without serious opposition from several Northern members, who generally supported the views of the administration), for completing the two existing regiments to nine hundred and sixty men each, and adding three others of equal strength—the additional regiments to be disbanded, however, at the conclusion of the Indian war. The battalion of artillery was to be recruited to its full establishment, and one of the new regiments was to include a battalion of dragoons, the president being authorized to call into temporary service such additional cavalry as might be found necessary. This would give an army of five thousand men and more, to be commanded by a major general and four brigadier generals, provision being made by the bill for three additional brigadiers. St. Clair having resigned, Washington was disposed to give the chief command to Henry Lee, distinguished as a parti-

san officer in the Southern campaigns under Greene, <sup>CHAPTER</sup>  
and lately elected governor of Virginia. But as there <sup>IV.</sup>             
threatened to be difficulty in persuading some of those 1792.  
destined for inferior commands to serve under one who  
had been their junior in the Revolutionary army, Wash-  
ington finally selected as major general, Wayne, just  
ousted from his seat in the House. This appointment,  
like most other acts of the government, was very un-  
popular in Virginia, but, as in many other things which  
Virginia disapproved, the result proved the soundness of  
Washington's judgment. While he yet retained his  
seat, Wayne had succeeded in getting through Congress  
a bill for the relief of Greene's family from the pecunia-  
ry responsibilities to which that general had subjected  
himself through his anxiety to uphold the commissary's  
department of the Southern army—a bill which did not  
pass without strong objections from Sumter, who took  
great offense at some extracts from Greene's letters,  
contained in Gordon's recently published History of  
the American War, not quite complimentary enough, as  
Sumter thought, to the South Carolina militia. The  
places of first and second brigadiers, declined by Morgan  
and Willett, were given to Otho H. Williams and Rufus  
Putnam, among the junior brigadiers of the Revolutionary  
army. Willett seemed to have scruples about the jus-  
tice of the war. "The intercourse I have had with  
these people," he wrote, "and the treatment which I  
have myself received from them, and which I have  
known others to receive, makes me an advocate for  
them. The honor of fighting and beating Indians is what  
I do not aspire after." The other two brigadiers were  
Brooks, of Massachusetts, who had commanded a regi-  
ment during the late war, and Wilkinson, late com-  
mandant of the second regiment. As this last appoint-

CHAPTER IV. ment was made with a full knowledge of the imputations against Wilkinson, of having been concerned in 1792. intrigues with the Spanish at New Orleans for the separation of Kentucky from the Union, those imputations, it is probable, could not have made much impression on Washington's mind.

The subject of St. Clair's defeat was referred, toward the end of the session, to a special committee, with power to send for persons and papers. A call by this committee upon the War Department for all the papers relating to the expedition first raised the question of the extent of the authority of the House in such matters. It was unanimously agreed by the cabinet that the House had no power to call on the head of any department for any public paper, except through the president, in whose discretion it rested to furnish such papers as the public good might seem to require and admit; and that all such calls must be made by special resolution of the House, the power to make them being an authority which could not be delegated to any committee. Such was the origin of the form of proceeding, ever since in use, in calling upon the president for public papers.

To support the increased army, an additional revenue would be needed to the amount of \$673,500. The resistance encountered by a motion to call upon the Secretary of the Treasury to report the ways and means of meeting this additional expense made it sufficiently evident that the distrust of that officer felt by Jefferson was shared by a considerable party in the House. Hamilton's report suggested three ways of raising the money: a sale of the bank stock belonging to the government, a loan, or additional taxes. He objected to the sale of the bank stock, especially as it was every day rising in value, and if sold at all, he thought the proceeds should be applied

to the reduction of the public debt. As the extinction of that debt ought to be a leading object, he was decidedly opposed to increasing it by a loan. Perhaps Hamilton had in his eye the charges urged against him in Freneau's Gazette, that it was part of his policy to saddle the nation with a debt never intended to be discharged, and that the limitations as to redemption had been inserted into the Funding Act with that very object. Taxation remaining as the only resource, an increase in the duties on imports was considered the kind of tax best adapted to the present occasion. Such constant additions to the burdens of commerce, and such frequent changes in the rate of duties, were indeed to be regretted; but he consoled himself with the reflection that the improved state of public credit gave increased facilities to the merchants, and by the hope that the additional duties might give a new impulse to the spirit of manufacturing already extensively prevalent, and thus essentially serve to promote the industry, wealth, and substantial independence of the country. In conformity with a resolution of the preceding Congress, Hamilton had already, earlier in the session, presented an elaborate report on the policy of protecting domestic manufactures, with an answer to the objections made against it—a summary of the argument on that side of the question to which subsequent discussions have added but little.

In substantial conformity to Hamilton's recommendations, a new tariff act fixed the rate of duty on Canary, Port, Lisbon, St. Lucar, Sherry, and Madeira wines at from twenty to fifty-six cents per gallon, all other wines to pay forty per cent. on the value. Spirits distilled from grain were to pay from twenty-eight to fifty cents, and all other distilled spirits from twenty-five to forty-six cents, according to proof; beer, ale, and porter, eight cents

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CHAPTER per gallon ; cocoa, two cents per pound ; chocolate, three  
IV. cents ; hemp and steel, one dollar per hundred weight ; ca-

1792. bles and tarred cordage, one dollar and eighty cents ; untarred cordage, two dollars and twenty-five cents ; twine and pack-thread, four dollars ; Glauber's salts, two dollars the hundred weight ; coal, four cents and a half per bushel ; playing-cards, twenty-five cents per pack ; shoes and slippers, from seven to twenty cents per pair. The following were added to the list of articles paying fifteen per cent. on the value : China-ware, glass of all kinds, except black quart bottles ; muskets, pistols, and other fire-arms ; swords, cutlasses, and other side-arms ; hair-powder, glue, wafers, painters' colors, laces, tassels, and trimmings. To the list of articles paying ten per cent. on the value were added, cast, slit, and rolled iron, and all manufactures of iron, steel, copper, tin, brass, and pewter, except wire ; cabinet-wares, leather, and all manufactures of leather ; drugs, except dye-stuffs ; carpetings, mats, and floor-cloths ; hats, caps, bonnets, gloves, stockings, millinery, artificial flowers, feathers, and other ornaments for female dresses ; fans, toys, dolls, buttons, powders, pastes, balsams, ointments, perfumes, and cosmetics. All articles charged in the former tariff with five per cent. on the value, were to pay for two years an additional duty of two and a half per cent. To the list of free articles were added, copper in pigs and bars, unmanufactured wool, woad, and sulphur. Salt was hereafter to be reckoned at fifty-six pounds to the bushel, and the credit on the duty was extended to nine months. On all articles except West India goods, wines, and teas, as to which the previous provisions remained in force, the duties might be paid in four installments, one half the amount in six months, one quarter in nine, and the other quarter in twelve months. The president was

authorized to anticipate the receipt of the new duties by CHAPTER IV.  
a temporary loan from the bank.

The great object of this new tariff was revenue; 1792. yet, in selecting the particular subjects for increased taxation, an eye was evidently had throughout to the protection of American industry. The increased duties on hemp and cordage, opposed by some of the mercantile representatives as injurious to the navigating interest, were defended by Madison and others as affording protection at once to manufactures and to agriculture. In the bill as originally reported, cotton had been added to the list of free articles, a provision supported by Ames and some of the Pennsylvania members on the ground that this article was needed by the manufacturers, and could only be obtained from abroad. But the old duty of three cents a pound was retained on the representations of Macon, Page, and others, as to the abundant produce and excellent quality of the Southern cotton, for which, as they alleged, no market could be found.

At the same time with the increase of duties on imported spirits, alterations were made, at Hamilton's suggestion, in hopes of rendering the Exise Act more acceptable to those upon whom its first operation bore. The duties were diminished from one to seven cents per gallon, according to the strength and material—the highest duty being fixed at twenty-five cents, and the lowest at seven cents per gallon. Additional facilities were also allowed to the small country distillers, who were permitted to pay a monthly instead of a yearly rate upon the capacity of their stills, and to take out licenses for any periods they chose.

Another bill, introduced into the Senate by Cabot, re-established the old system of bounties, to which the fishermen had been accustomed under the British gov-

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 ernment. All vessels employed for the term of four months, at least, in each year in the Bank and other co  
 1792. fisheries, were entitled to a bounty varying from one dollar to two dollars and a half per ton, according to the size, three eighths to go to the owners, and five eighths to the fishermen. This provision did not impose a new burden on the treasury, being only a substitute for the drawback of duties on the salt employed in curing the fish—a change agreeable to the fishermen and the immediate employers, who flattered themselves that the drawback would now come to them instead of going in the pockets of the exporting merchants. In this there was, no doubt, much of deception, since the exporters would now pay so much less for the fish. The nation benefited of the fisheries as a nursery for seamen was urged as the chief argument for adopting the system of bounties.

The pressure of the Indian war forced Congress to undertake an organization of the militia—a very difficult subject, as well on account of the conflicting claims to authority on the part of the states and the general government, as by reason of obstacles to be encountered in establishing any system that should produce an effective force. The act, as passed, still remains, in spite of numerous attempts to amend it, the basis of the militia system of the United States, though very much modified as to its local operation by state laws on the same subject. It provided for a geographical arrangement of the militia by the state Legislatures into companies, battalions, regiments, brigades, and divisions; each company to consist of sixty-four men, each battalion of five companies, each regiment of two battalions, and each brigade of four regiments. There were to be a captain, lieutenant, and ensign for each company, a major for each ba

talion, a lieutenant-colonel commandant for each regiment, a brigadier general for each brigade, and a major general for each division. The rank of lieutenant-colonel commandant, to the exclusion of colonels, had been introduced into the Revolutionary army for the avoidance of certain questions as to rank by which the exchange of prisoners had been embarrassed—a temporary arrangement long perpetuated, as well in the regular army as in the militia. In both services, however, the rank of colonel has been re-established. There was to be one company of light troops to each battalion, and at least one company of artillery and one of horse to each division, to be formed out of volunteers, and to be clad in uniform at their own expense. For the general superintendence of the whole system, each state was to appoint an adjutant general.

Every able-bodied free white citizen within the ages of eighteen and forty-five, with certain exceptions, to which the states were at liberty to add, was to be enrolled in the militia by the captain of the company in whose bounds he might reside, and, on notice of his enrollment, was required to arm and equip himself, and to come forth so armed and equipped when called out to exercise or into service. As the amount of training to be required was left entirely at the discretion of the states, the efficiency of the whole system rested with them, and in different states was very different. This militia law, in fact, did nothing more than to adopt the system as it stood in each state, with some provisions merely for uniformity of organization.

Another act authorized the president, in case of invasion by any foreign nation or Indian tribe, or imminent danger thereof, or in case of insurrection in any state, application being made by its Legislature or its execu-

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tive, to call forth the militia of the state or states most convenient to the scene of action, by orders issued to any militia officers at his discretion, and in such numbers as he might judge necessary. A similar power was also given, in case of combinations to resist the laws of the United States, too strong to be suppressed by the ordinary course of justice, such fact being first certified by the federal judge for the district, or by one of the judges of the Supreme Court of the United States. This provision for enforcing the laws of the United States was very warmly opposed by Page. Mild and equitable laws, such was his argument, never would be resisted; and, if laws were resisted, that alone was proof enough that they ought to be repealed. The act was limited to two years, but its provisions, slightly modified, were subsequently re-enacted, and still continue in force. One inducement to the passage of this act was the state of things in Western Pennsylvania, where the opposition to the excise laws was very violent, and even threatened to prove too strong for the civil authority. The hope of appeasing that opposition, which existed also, to a certain extent, in North Carolina, had led to the modifications in the Excise Act already noticed, and intended to remove all reasonable grounds of complaint.

Upon a bill for the organization of the post-office system, the same difference of opinion arose which had defeated any organization of that department by the preceding Congress. The propriety of vesting in the president, or the postmaster general, authority to designate and establish post-roads, was urged on the ground of the better knowledge of the subject likely to be possessed by an officer whose whole attention was devoted to it, and free from those local influences to which members of Congress might be subjected. But in the act as passed, this

authority was reserved to Congress. A power, however, CHAPTER IV. by way of compromise, was vested in the postmaster general to establish cross post-routes, the contractors undertaking to carry the mail for the postage. The postmaster general was also authorized to appoint his assistants and all deputy postmasters, and, after advertising for proposals, to make contracts for carrying the mail by stage-coaches or on horseback, as he might judge convenient; but the whole expenses of the department were to be paid out of the income. The postmaster general was to settle quarterly with his deputies, and himself as often with the Secretary of the Treasury. The postage was fixed at rates varying from six cents for distances of thirty miles or less, to twenty-five cents for distances of four hundred and fifty miles or over, with like amounts for each inclosure: rates persevered in for more than fifty years, till the danger of private competition led to more moderate charges. Newspapers were to pay one cent each for every hundred miles or less, and a cent and a half for greater distances. The franking privilege was given to members of Congress during the session and twenty days afterward; also to the principal executive officers. Wadsworth attempted to strike out this provision, but without success. Robbery of the mail, or embezzlement by any officer of the post of letters containing money or valuable papers, was made a capital offense; the opening, obtaining, or destroying other letters was made punishable by a fine of three thousand dollars and six months' imprisonment.

The salary of the postmaster general was fixed at \$2000. That office, upon the resignation of Osgood, had lately been conferred on Timothy Pickering. The deputy postmasters were to be paid as heretofore, by a commission on their receipts; but none were to receive

CHAPTER more than \$1800. Though considered at first as an  
IV. inferior office, not entitling the holder to a seat in the

1792 cabinet, the extent to which its patronage has reached has since made the station of postmaster general, in the eyes of politicians at least, one of the most important posts in the government. Perhaps it was a perception of the influence thus to be exerted that made Jefferson so urgent with the president that the general superintendence of the post-office should be annexed to his department rather than to Hamilton's; a request which he backed with the suggestion that the treasury department possessed already such an influence as to swallow up the whole executive powers, and to threaten to overshadow even the office of president.

A resolution of the first Congress had authorized the president to engage artists and procure apparatus as preliminary steps toward the establishment of a mint. By an act of the present session the mint was formally established, the officers to be a Director—an appointment presently bestowed on the ingenious Rittenhouse—an Assayer, Chief Coiner, Engraver, and Treasurer, with salaries from \$2000 to \$1200 each. The president was authorized to procure, at the seat of government, buildings suitable for the purpose. All bullion brought to the mint was to be coined gratuitously; but when coin was delivered in exchange on the spot, one half of one per cent. was to be deducted. The provisions of the ordinance of the Continental Congress on the subject of coins were re-enacted. These coins were the eagle, half eagle, and quarter eagle, in gold; the dollar, half dollar, quarter dollar, dime, and half dime, in silver; the cent and half cent in copper. The ratio of gold to silver, that of one to fifteen, established by this act, being a decided under-valuation of gold, long prevented the gold coinage

from getting into circulation. The weight of the eagle was to be 270 grains, that of the dollar 416 grains. CHAPTER  
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The alloy in gold coins, a mixture of silver and copper, was to be one part in twelve; that of the silver coins, 179 parts in 1485, or about one in eight and three tenths. 1792.  
To obviate the inconvenience growing out of the copper coins emitted by the states, and which would not pass except in the states emitting them, an immediate coinage of a hundred and fifty tons of copper was ordered by a separate act.

Touching the device to be placed on these coins a curious debate arose, sufficiently characteristic, as tending to show upon what small matters the jealousy of the republican or opposition party was ready to fasten; but indicative also of a state of mind very widely diffused throughout the country. As the bill came from the Senate, where it originated, on one side of the gold and silver coins was to be the eagle—adopted by the Continental Congress, and still continued as the national emblem or seal—with the legend, “United States of America.” To this there was no objection. In accordance with a usage sufficiently common, from the days of the earliest known coinage, the Senate’s bill proposed for the reverse “an impression or representation of the head of the President of the United States for the time being,” with his name and order of succession in the presidency, and the date of the coinage. This proposal seemed to some, like the president’s speeches to Congress, his levees, and the proposition formerly made to give him the title of Highness, a very alarming step toward monarchy. Key, of Maryland, moved to substitute for the president’s head “an emblematical figure of Liberty,” a motion seconded by Page, who suggested that, how much soever the people might be pleased with having on their



CHAPTER IV. coins the head of the great man now president, they might have less occasion to be satisfied with some of his successors. 1792. The head of the president would be viewed as the stamp of royalty on our coins, would wound the feelings of many friends, and gratify our enemies.

The importance attached to this matter was ridiculed by Livermore, who declared himself utterly unable to comprehend how the head of the president on the coin could endanger the liberties of the country. Smith, of South Carolina, thought it strange that the passage of the bill was to be risked on so trivial a circumstance, and especially that the objection should come from such admirers of the new French Constitution as the gentlemen making it professed to be, since that Constitution expressly provided for placing the head of the chief magistrate on the coin. Key's motion, however, was carried on a division, twenty-six to twenty-two. The bill coming up on its third reading, Gerry moved to reinstate the clause struck out, except the words "for the time being," so as to make it applicable to Washington alone; but Sedgwick pronounced the point of too little consequence to be debated, and the bill was passed as amended, and sent back to the Senate. They very soon returned it with a refusal to concur, whereupon Livermore moved to recede. The present occasion, he thought, offered the best opportunity to do honor to the man whom all loved, instead of which it was proposed to insult him. At the same time that a project was on foot—he alluded to a proposal lately made to Congress by an Italian artist, and patronized by several Southern members—to erect a monument in honor of the president at an expense of a quarter million of dollars, why object to an honor more effectual, without any expense, or the shadow of flattery, and every way safe and satisfactory? It was

proposed to substitute "an emblematical figure of Liberty," but how agree upon that emblem? Liberty, in his idea of it, was that which arose from law and justice, and which secured every man in his individual and social rights. Others, perhaps, had in their minds something little better than the liberty of savages, the relinquishment of all law that contradicted or thwarted their passions and desires. Some gentlemen might think a bear broke loose from his chains a fit emblem of liberty; others might prefer a different device. He could hardly conceive of any adapted to the case of these states, which justly boasted of having always been free. He thought the head of the President of the United States quite as good an emblem of liberty as any other.

Mercer, of Maryland, replied with a good deal of asperity. There was a rule in the British House of Commons that the name of the king should never be mentioned in any debate, and he thought that some such rule might be advantageously adopted by this house. It would be no honor to the president to pay him a compliment which might be shared by persons no better than Nero, Caligula, or Heliogabalus. Seney, one of Mercer's colleagues, reflected severely on the Senate for having rejected the amendment without taking time to deliberate on the reasons in its favor. Giles thought this proposition to place the president's head on the coin, very much of a piece with the first act of the Senate. "It had a very near affinity to titles, that darling child of the other branch of the Legislature, put out at nurse for the present, but intended to be recognized hereafter with all due form." Benson ridiculed the idea of the people being enslaved by their presidents, or, what was still less likely, by the president's image on the coin. Page, in reply, was very sorry that some men ridiculed republican

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CHAPTER IV. caution. It was the duty of members to watch over the liberties of the country, and they ought not to be treated with levity for doing so. It was as a watchman for liberty that he warned his constituents of the danger of imitating the almost idolatrous practice of monarchies as to the honor paid to kings, by impressing their images and names on the current coin. He wished to add as few incentives as possible to competition for the president's place. He warned the country against the cabals, the corruption, and animosities which might be excited by the intrigues of ambitious men, animated by the hope of handing down their names to the latest ages on the medals of their country. An honor so indiscriminate was unworthy of the president's acceptance. To limit it to the present chief magistrate would be less objectionable, but the Senate knew that the president's delicacy would not permit him to sign such a bill, which might, indeed, blast his reputation, and therefore they had extended the compliment to all his successors. He was a friend of the president, and had shown it on proper occasions. The country was under obligations to him; but lovers of liberty and friends to the rights of man would be cautious of the ways in which they expressed their sense of that obligation.

The House insisted on their amendment, and the Senate yielded. It was some time, however, before the artists could come to an agreement as to the proper emblematical figure; and Boudinot, at the next session, attempted, though without success, to substitute in place of it the head of Columbus.

Some allusions, in the course of this debate, to the new French Constitution, in which the incongruous attempt had been made to combine an hereditary chief magistrate with a form of government in all other respects

essentially democratic, were among the earliest referen-  
 ces in Congress to the subject of French politics. It was  
 only a few days before that the president had communi-  
 cated to Congress a letter from Louis XVI., announcing  
 his signature to that instrument, and its having thereby  
 become the fundamental law of the French nation. All  
 the members but two concurred in a vote expressing the  
 high satisfaction of the House at receiving information  
 of this important event, and their sincere sympathy in the  
 welfare of the French people. But when it came to com-  
 plimenting the "wisdom and magnanimity" displayed,  
 as well in the formation as in the acceptance of the new  
 Constitution, sixteen members demurred. Of these six-  
 teen, ten were from New England, three from New York,  
 one from Pennsylvania, and two from South Carolina.

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The passage, by the former Congress, of a permanent  
 act to regulate processes issuing from the courts of the  
 United States, had been prevented by a difference of  
 opinion as to the proper style of the writs, whether they  
 should issue in the name of the president, or, conformably  
 to the practice of the states, in the name of the people or  
 of the commonwealth. This point had been evaded by  
 the passage of a temporary act, by which the form of  
 writs, except their style, for which no provision was made,  
 and which was thus left to the discretion of the court,  
 was to conform in each state to the usage of the Supreme  
 Court of that state. The writs framed under this pro-  
 vision had been made to issue in the name of the Presi-  
 dent of the United States, and the forms adopted, except  
 their style, were now confirmed by law, subject to such  
 changes as the Supreme Court might order. Any direct  
 approval was thus avoided of the monarchical usage—  
 for so the ultra Republicans esteemed it—of issuing writs  
 in the president's name: a usage, however, in which the

CHAPTER IV. courts still persist. The same act confirmed and sanctioned the adoption, by the respective district and circuit courts, in actions at common law, of the method of

1792. procedure in use in the state courts of each respective district; but a discretion was given to the Supreme Court to make such changes as they might judge expedient. Subject to the same discretion on the part of the Supreme Court, the proceedings in equity and admiralty cases were to be "according to the principles, rules, and usages which belong to courts of equity and to courts of admiralty respectively, as contradistinguished from courts of law"—a provision construed by the Supreme Court to authorize the adoption of the forms and methods of the English Courts of Chancery and Admiralty.

The resolution of the first Congress, requesting of the states the use of their jails for federal purposes, having been generally complied with, an act for the relief of persons imprisoned for debt under processes from the courts of the United States extended to such prisoners the same privileges, as to jail limits, enjoyed by those confined in the same jails under state authority. Any prisoner, on taking an oath of poverty, was to be supported at the expense of the creditor, at the rate of one dollar weekly, otherwise to be discharged, his person to be thenceforth free, but his property to continue liable for the debt.

John Rutledge had resigned his seat on the bench of the Supreme Court, in consequence of an appointment as Chief Justice of South Carolina. The place had been offered first to Edward Rutledge, and then to Charles C. Pinckney; but both excused themselves, alleging that they could be more useful to the government out of office than in it. Finally, the vacant seat was given to Thomas Johnson, late governor of Maryland, and an early member of the Continental Congress, it having been on

his motion that Washington had been appointed commander-in-chief; but he did not long retain it. CHAPTER  
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An act on the subject of invalid pensions, by the number 1792  
 merous applications for which, growing out of casualties in the Revolutionary war, Congress had been a good deal embarrassed, gave to the federal courts the first occasion to vindicate, as against the legislature, their dignity and rights. This act directed that claimants for pensions should exhibit to the federal circuit court of their respective districts the evidence of their claims; and all to whom the courts granted certificates were to be placed on the pension list by the Secretary of War, unless he had cause to suspect some imposition or mistake, in which case he was to report the matter to Congress. Applications having been made under this act, not long after its passage, to the Circuit Court for the District of New York, the judges, Jay being one, represented to the president that the act, so far as related to them, was unconstitutional and void, because Congress had no right to impose upon them any thing but purely judicial duties, nor to give to the Secretary of War, to Congress, nor to any body else a revisory power over their proceedings. At the same time they expressed their readiness, acting, not as judges, but as commissioners, to make the investigations required. Similar representations were made by the circuit courts of Pennsylvania and North Carolina. To bring this question to a solemn decision, the Attorney General of the United States finally moved in the Supreme Court for a writ of mandamus to the Circuit Court of Pennsylvania, ordering them to entertain and exercise, as judges, the jurisdiction imposed by the Pension Act. An argument was had on this application, but before any formal decision was pronounced, Congress repealed the obnoxious law. This, however, did not occur till the next session.

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Another act of this session, of which most of the provisions still remain in force, regulated the authority and duty of American consuls appointed for foreign ports. They were to receive and authenticate all protests and declarations made before them by American citizens, or by foreigners in relation to any American citizen, copies of which, under their seals, were to have the same validity as the originals. They were to take possession of the property of all American citizens dying within their consulate, and having no partner or legal representatives; to make an inventory of it, with the assistance of two merchants, Americans, if there were any in the neighborhood, to be transmitted to the Secretary of State; to convert the property into money; to collect and pay the debts due to and from the deceased, and to remit the balance to the treasury of the United States, in trust for the heirs. In case of the stranding of any American vessel within their consulate, they were to take all proper steps, at the expense of the owners, for saving both ship and cargo; also to provide for and send home, at the expense of the United States, American seamen left abroad. Except at the Barbary ports, where the consuls acted as diplomatic agents, no salaries were allowed, but only certain fees, in some cases an abundant, in others a very insufficient compensation—a system still adhered to.

Some further action was also had on the subject of the public debt. There still remained outstanding certificates not subscribed to the new loans to the amount of ten millions of dollars. Further time was allowed to the holders of these certificates to become subscribers, and provision was made meanwhile for paying the interest. Provision was also made for paying off in full, both principal and interest, the certificates held by the foreign officers who had served in the Revolutionary army. An

attempt to procure a further assumption, in case of the more deeply indebted states, was very warmly met by CHAPTER  
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 Giles, who took occasion to deliver a bitter philippic 1792.  
 against the whole funding system, and the Secretary of  
 the Treasury as its author—a species of eloquence for  
 which he afterward became famous. Madison and Find-  
 ley, on behalf of the states of Virginia and Pennsyl-  
 vania, insisted upon extending this assumption, if made,  
 to that part of the state debts paid off since the peace,  
 and in that way succeeded in defeating the proposition.

Taking up the suggestions thrown out by Madison in  
 the debate on the original Funding Act, the officers of  
 the Massachusetts Continental line had drawn up a me-  
 morial to Congress, had sent on Hull, one of their num-  
 ber—afterward very unfortunately distinguished—to call  
 attention to their claims, and had invited the officers of  
 the other Continental lines to co-operate in the same  
 movement. The Massachusetts petition admitted that  
 the first two armies, those which served in the cam-  
 paigns of 1775 and 1776, had no ground of complaint,  
 because in their time there was no depreciation. It was  
 admitted, also, that those who had enlisted in 1780 and  
 afterward, had no claim in equity, because the large  
 bounties they received on engaging might be considered  
 as an offset to what they afterward lost. But very dif-  
 ferent was the case of those who had enlisted into the  
 permanent army prior to 1780. Having served through  
 the most important campaigns, they had been obliged to  
 accept their large arrears of pay, and the compensation  
 allowed them for the depreciation of the paper money,  
 in certificates unsupported by funds, and having no value  
 beyond their market price, which was not more than a  
 fifth, a sixth, or even an eighth of their nominal amount.  
 This loss the United States were bound to make up, and



CHAPTER IV. they might do it, notwithstanding the liberal provision already made for the holders of the certificates, without

1792. paying any thing more in the whole than had been originally promised. Of the interest of six per cent. originally payable on the certificates, there had been kept back from the holders, under the terms of the new funding system, two per cent. for ten years on the principal amount, while the over-due interest had only been funded at three instead of six per cent. Out of this reserved fund compensation was claimed for the army. It was late before this memorial was presented, and no action was had upon it at the present session.

The new election of president, to take place before the next session of Congress, suggested the necessity of providing by law for the formalities to be observed on such occasions. By an act upon this subject, each state was, within thirty-four days preceding the first Wednesday of December, 1792, and of every fourth year afterward, to appoint as many electors as it would be entitled to senators and representatives in Congress when the president and vice-president to be chosen should enter upon office. The electors, the method of whose choice and the place of whose meeting was left to the state Legislatures, were to assemble on the first Wednesday of December, and, having voted, were to sign three certificates of the result, to each of which was to be annexed a list of the electors, certified by the governor of the state. Two of these certificates were to be sent to the President of the Senate, one by a special messenger, the other through the post-office; the third was to be delivered to the federal judge of the district; and in case neither of the others reached the seat of government by the first Wednesday of January, the Secretary of State was to dispatch a special messenger to bring it. On the sec-

and Wednesday of February the certificates were to be opened by Congress, and the successful candidates declared. This act is still in force (1853), but so amended that the electors are now chosen on the same day throughout the Union: the Tuesday next after the first Monday of November in every fourth year. CHAPTER  
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The same act provided for filling temporarily the executive office, in case of the inability, resignation, removal, or death of both president and vice-president, the power to regulate this matter by law being conferred on Congress by the Constitution. This subject had been a good deal discussed in the former Congress. The Secretary of State, the Chief Justice, the President of the Senate, and the Secretary of the Treasury, had all been respectively proposed for that purpose. The present act selected the President pro tempore of the Senate, or, in case there were none, the Speaker of the House of Representatives, to act till the removal of the disability or a new election, to be held in such cases on the first Wednesday of December, after two months' notice of the vacancy given by the Secretary of State to the state executives. These provisions, contained in the bill as it came from the Senate, met with some opposition in the House. It was denied that the President of the Senate was an officer in the sense of the Constitution. The friends of Jefferson seemed to insist, almost as a personal matter, upon the claims of the Secretary of State to act as the temporary president. Considering that the contingency could not be foreseen, and was not likely to occur once in a century, it was somewhat hypercritically urged in reply, that to select any head of a department would be to give to the president the appointment of his own temporary successor. The objection to the Chief Justice was more solid. It was his duty to officiate in the Sen-

CHAPTER IV. ate in case of the impeachment of the president, and might, by possibility, if acting president, be called u  
1792. to preside over his own impeachment. It was propo to substitute the senior associate justice of the Supre Court; but finally the bill passed without alteration, its provisions on this subject, as well as on others, remain the law of the land.

The appropriations for the service of the year 1792 exhibited a great increase of federal expenditure. They embraced \$611,270 46 for the civil list, diplomatic intercourse, and sundry claims, including the expense of ten cutters for the revenue department; \$532,449 for the ordinary expenses of the War Department, including pensions and Indian affairs, with \$673,500 for new regiments; making, with \$2,849,194 73, to which the interest already payable on the public debt was added, an expenditure for the year 1792 of \$4,666,414 94—a far greater annual sum than the general government had ever yet paid, except by the assistance of paper money or loans. A standing order was adopted at this session, and ever since continued in force, which required the Secretary of the Treasury, at an early period of each session, to communicate to the House an accurate statement of the receipts of all public moneys, of the expenditures under each head of appropriation, and of the unexpended balances of appropriations.

Pending the session of Congress, a Convention met in Kentucky to frame a Constitution for that new state. The master spirit of this body was George Nicholas, one of the most of the other inhabitants, an emigrant from Virginia—the same person who had moved, in the Virginia Legislature, for Jefferson's impeachment during the session of Cornwallis, though subsequently and at the request of one of his political friends. The Constitution drafted

Nicholas, and which seems to have been agreed to without much debate, vested the legislative authority in a Senate and House of Representatives. The representatives, never to be less than forty nor more than a hundred, were to be apportioned among the counties according to the relative number of their free white inhabitants above twenty-one years of age, to be ascertained by enumeration once in four years, and were to be chosen annually by the votes of the free white citizens, residents in the county for one year, or in the state for two years. CHAPTER IV. 1792.

The Senate was to consist at first of eleven members; but for every four members added to the House, there was to be an addition of one senator. These senators, to hold office for four years, were to be chosen, not directly by the people, but indirectly through the medium of electors, according to a scheme borrowed from the Constitution of Maryland. These electors, equal in number to the representatives, to be chosen once in four years in the counties, were to meet in a body at the seat of government, there, by ballot, to make choice of the senators, who were empowered to fill any vacancies in their own body. At the same time and place, these same electors were to choose a governor, to hold office for four years, with a qualified veto on all enactments, similar to that possessed by the President of the United States, and with a like appointing power.

No pecuniary qualification was required either in voters or officers, but representatives must be twenty-four years of age, senators twenty-seven, the governor thirty, and all of them citizens of the state for two years.

The judicial power, in matters both of law and equity, was to be vested in a supreme court, to be styled the Court of Appeals, and in such inferior courts as the Legislature might constitute. All the judges of all the courts

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were to receive a compensation, not to be diminished during their continuance in office ; and, as well as the 1792. justices of the peace, were all to be appointed by the governor for good behavior, but subject to removal on an address to that effect from two thirds of both branches of the Legislature. Sheriffs and coroners were to be chosen by the people of each county for terms of three years. The existing code of Virginia was to remain the law of the new state until altered by the Legislature.

A separate article on the subject of slavery provided that the Legislature should have no power to pass laws for the emancipation of slaves without the consent of their owners, nor without paying therefor, previous to such emancipation, a full equivalent in money ; nor laws to prevent immigrants from bringing with them persons deemed slaves by the laws of any one of the United States, so long as any persons of like age and description should be continued in slavery by the laws of Kentucky. But laws might be passed prohibiting the introduction of slaves for the purpose of sale, and also laws to oblige the owners of slaves to treat them with humanity, to provide them with necessary clothing and provisions, and to abstain from all injuries extending to life or limb ; and provision might be made, in case of disobedience to such laws, for the sale of the slave to some other owner, the proceeds to be paid over to the late master. The Legislature was also required to pass laws giving to owners of slaves the right of emancipation, saving the rights of creditors, and requiring security that the emancipated slaves should not become a burden to the county.

By a bill of rights prefixed, full freedom of conscience was provided for, and entire equality of all religions and modes of worship.

A new convention might be held at the end of seven years, provided a majority of the people, at two successive annual elections, voted in favor of it. This provision, when it came to be acted upon, produced some important modifications, as we shall see hereafter, in the Constitution of Kentucky. The very limited authority bestowed directly on the people presents a striking contrast to the Constitution of Vermont, and serves as one among many other proofs that, however Virginia and the states settled from it might exceed in theoretical democracy, the practical application of that theory was far more efficiently carried out in New England.

Kentucky being thus organized as a state, Isaac Shelby was chosen the first governor.

Simultaneously with the coming in of this new state, the Constitutions of Delaware and New Hampshire underwent revisions. The changes in Delaware corresponded very much with those recently made in Pennsylvania. The president became a governor, elected by the people for three years, with an appointing power similar to that of the governor of Pennsylvania, but without any veto on legislative acts. The late Legislative Council became a Senate, the Executive Council being altogether dispensed with. The provision contained in the Constitution of Pennsylvania, authorizing the truth to be given in evidence in prosecutions for libel, was also copied into the Constitution of Delaware.

The changes in New Hampshire were less material—little more, in fact, than a change of title for the office of chief magistrate from president to governor. As under the Constitution of 1783, modeled after that of Massachusetts, the legislative authority was still vested in a Senate and House of Representatives. The twelve senators were distributed among the counties. Each town

CHAPTER IV. having one hundred and fifty ratable polls, that is, male inhabitants over sixteen years of age, was entitled to 1792. one representative, and another for every addition to the population of three hundred ratable polls. There was an executive council of five members, one for each county, without whose advice and consent the governor could not act. In all appointments to office, the governor and council had a negative on each other. The judges were appointed for good behavior. The governor and counselors, as well as the members of the General Court, were chosen annually. Representatives were required to possess property to the value of \$333 33, one half, at least, in lands; senators must have twice that qualification, the whole in lands; the governor must have property, half of it in land, to the amount of \$1666 66; and all these officers were required to be of the Protestant religion. All tax-paying inhabitants were entitled to vote.

## CHAPTER V.

ALLEGED MONARCHICAL CONSPIRACY. BASIS OF PARTY DIVISIONS IN THE UNITED STATES. DIFFERENCES BETWEEN JEFFERSON AND HAMILTON. RESISTANCE TO THE EXCISE. INDIAN AFFAIRS. SECOND SESSION OF THE SECOND CONGRESS. CHARGES AGAINST HAMILTON. WASHINGTON'S SECOND INAUGURATION.

SINCE Washington's accession to the office of president, he had experienced two severe and even dangerous fits of sickness. He complained of a growing decline of strength, and had intimated to his cabinet his design to retire at the close of his present term of office, which, indeed, had been his intention from the first. His retirement, however, was warmly combated from very opposite quarters; and the reasons respectively urged throw a strong light on the politics of the times.

Though Jefferson had dwelt with great emphasis on the re-eligibility of the president as a strong objection to the Constitution, he did not hesitate, very soon after the adjournment of Congress, to address a letter to Washington at Mount Vernon, whither he had retired for some temporary repose, strongly pressing upon him not to decline serving a second term.

The want of confidence and serenity in the public mind, growing out of causes in which Washington was no ways personally mixed up, was alleged as a reason why he should suffer himself to be re-elected. "Though these causes have been hackneyed in detail in the public papers," so the letter continued, and it might have specified as the leader in this business Freneau's Gazette,



CHAPTER of which Jefferson himself was believed to be at once  
V. patron and prompter, "it may not be amiss, in order to  
1790. calculate the effect they are capable of producing, to take

a view of them in the mass, giving to each the form, real or imaginary, under which they have been presented.

"It has been urged, then, that a public debt, greater than we can possibly pay before other causes of adding new debt to it will occur, has been artificially created by adding together the whole amount of the debtor and creditor sides of accounts, instead of taking only their balances, which could have been paid off in a short time; that this accumulation of debt has taken forever out of our power those easy sources of revenue which, applied to the ordinary necessities and exigencies of government, would have answered them habitually, and covered us from habitual murmurings against taxes and tax-gatherers, reserving extraordinary calls for those extraordinary occasions which would animate the people to meet them; that, though the calls for money have been no greater than we must generally expect for the same or equivalent exigencies, yet we are already obliged to strain the impost till it produces clamor, and will produce evasion, and war on our citizens to collect it, and even to resort to an excise law, of odious character with the people, partial in its operation, unproductive, unless enforced by arbitrary and vexatious means, and committing the authority of government in parts where resistance is most probable and coercion least practicable.

"They cite propositions in Congress and suspect others, still to increase the mass of debt. They say that by borrowing at two thirds of the interest, we might have paid off the principal in two thirds of the time; but that from this we are precluded by its being made irredeemable but in small portions and in long terms;

and that this irredeemable quality was given to it for the avowed purpose of inviting its transfer to foreign countries. They predict that this transfer of the principal, when completed, will occasion an exportation of three millions of dollars annually for the interest, a drain of coin of which, as there has been no example, no calculation can be made of its consequences; and that the banishment of our coin will be completed by the creation of ten millions of paper money in the form of bank bills now issuing into circulation.

“ They think the ten or twelve per cent. annual profits paid to the lenders of this paper medium are taken out of the pockets of the people, who would have had without interest the coin it is banishing; that all the capital employed in paper speculation is barren and useless, producing, like that on a gaming-table, no accession to itself, and is withdrawn from commerce and agriculture, where it would have produced addition to the common mass; that it nourishes in our citizens habits of vice and idleness instead of industry and morality; that it has furnished effectual means of corrupting such a portion of the Legislature as turns the balance between the honest voters, whichever way it is directed; that this corrupt squadron deciding the voice of the Legislature have manifested their disposition to get rid of the limitations imposed by the Constitution on the general Legislature, limitations on the faith of which the States acceded to that instrument; that the ultimate object of all this is to prepare the way for a change from the present republican form of government to that of a monarchy, of which the English Constitution is to be the model. That this was contemplated in the Convention is no secret, because its partisans have made none of it. To effect it then was impracticable; but they are still eager after their

CHAPTER V. object, and are predisposing every thing for its ultimate attainment. So many of them have got into the Leg-

1792. islature, that, aided by the corrupt squadron of paper dealers, who are at their devotion, they make a majority in both houses. The Republican party, who wish to preserve the government in its present form, are fewer in number. They are fewer even when joined by the two, three, or half dozen anti-Federalists, who, though they dare not avow it, are still opposed to any general government; but being less so to a republican than a monarchical one, they naturally join those whom they think pursuing the lesser evil.

“Of all the mischiefs objected to the system of measures before mentioned, none is so afflicting and fatal to every honest hope as the corruption of the Legislature. As it was the earliest of these measures, it became the instrument for producing the rest, and will be the instrument for producing in future a king, lords, and commons, or whatever else those who direct it may choose. Withdrawn such a distance from the eye of their constituents, and these so dispersed as to be inaccessible to public information, and particularly to that of the conduct of their own representatives, they will form the most corrupt government on earth, if the means of their corruption be not prevented.

“The only hope of safety hangs now on the numerous representation which is to come forward the ensuing year. Some of the new members will probably be either in principle or interest with the present majority. But it is expected that the great mass will form an accession to the Republican party. They will not be able to undo all which the two preceding Legislatures, and especially the first, have done. Public faith and right will oppose this. But some parts of the system may be rightfully

reformed, a liberation from the rest unremittingly pursued as fast as right will permit, and the door shut in future against similar commitments of the nation Should the next Legislature take this course, it will draw upon them the whole monarchical and paper interest. The latter, I think, will not go all lengths with the former, because creditors will never, of their own accord, fly off entirely from their debtors. Therefore this is the alternative least likely to produce convulsion. But should the majority of the new members be still in the same principles with the present, and show that we have nothing to expect but a continuance of the same practices, it is not easy to conjecture what would be the result, nor what means would be resorted to for correction of the evil. True wisdom would direct that they should be temperate and peaceable. But the division of sentiment and interest happens unfortunately to be so geographical, that no mortal can say that what is most wise and temperate would prevail against what is more easy and obvious.

“I can scarcely contemplate a more incalculable evil than the breaking of the Union into two or more parts. Yet when we review the mass that opposed the original coalescence; when we consider that it lay chiefly in the Southern quarter; that the Legislature have availed themselves of no occasion of allaying it, but, on the contrary, whenever Northern or Southern prejudices have come in conflict, the latter have been sacrificed and the former soothed; that the owners of the debt are in the Southern, and the holders of it in the Northern division; that the anti-Federal champions are now strengthened in argument by the fulfillment of their predictions; that this has been brought about by the monarchical Federalists themselves, who, having been for the new government

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 1792. merely as a stepping-stone to monarchy, have themselves adopted the very constructions of the Constitution, of which, when advocating it before the people, they declared it insusceptible; that the republican Federalists, who espoused the same government from its intrinsic merits, are disarmed of their weapons, that which they denied as prophecy having become true as history—who can be sure that these things may not proselyte the small number which was wanting to place the majority on the other side? And this is the event at which I tremble, and to prevent which I consider your continuance at the head of affairs as of the last importance.”

This very extraordinary letter was not the first occasion on which Jefferson had attempted to poison Washington's mind against those whose zeal and activity had secured the adoption of the Federal Constitution, and whose practical wisdom had marked out for the new government a course of policy so eminently successful.

Feb. 29 In a private conversation some three months before, of which Jefferson himself has left us a memorandum in his celebrated *Ana*, he had briefly urged the same topics, and with even greater bitterness against Hamilton, declaring the administration of the treasury department to be the sole cause of the public discontents, and dwelling with great emphasis on the alleged corrupt connivance between Hamilton and certain members of Congress.

The topics of Jefferson's letter, which must be considered as placing in their most plausible shape all the charges made against the new government by the Republican opposition, as they called themselves, were presently communicated to Hamilton for his observations; not, indeed, as coming from Jefferson, but as what Washington had ascertained, during his stay at Mount Vernon, to be the ideas circulating among those less favor-

able to the government ; among whom, as if to draw off CHAPTER  
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Hamilton's attention, he particularly named his neighbor  
George Mason, who had taken so decided a part in op- 1792.  
position to the Federal Constitution. Hamilton's answer  
to these charges has been recently printed for the first  
time in the new edition of Hamilton's writings by his  
son. But even without such assistance, it is sufficient-  
ly easy to perceive in Jefferson's charges a great distor-  
tion of facts, large drafts upon an excited imagination,  
and unnecessary alarms at chimerical dangers.

As to the funding of the public debt, there seems too  
much reason to suspect that, while it was only the  
method and incidents that were professedly found fault  
with, it was, in fact, the substance of the thing that gave  
the real offense. What was more natural than that those  
who resisted so pertinaciously the payment of their own  
private debts—and there was scarcely an anti-Federal  
state in which laws for that purpose had not been enact-  
ed—should be inclined to look on the public creditors  
with equal disfavor ? It is by no means easy to recon-  
cile with any principles of candor or justice Jefferson's  
extreme eagerness to reap all the fruits of the discontent  
which the funding of the public debt had occasioned, and  
his efforts to stimulate that discontent, with that wish  
for the payment of the debt and anxiety to preserve the  
public faith which at the same time he professed to feel.

The idea that the burden of paying the public debt  
fell with disproportionate weight on the South, because  
the original creditors, or, as Jefferson expressed it, " the  
owners of the debt," were chiefly in that section, while  
the present holders of it were mostly at the North, can  
only be explained as one of those exaggerations into which  
the people of all sections naturally fall, and of which  
party politicians so generally avail themselves to stir up

CHAPTER V. local discontents. So far as the Revolutionary debt grew out of certificates for military services, since New England furnished more men than all the other states put together, her original share of that part of the debt must evidently have been in the same proportion. So far as the debt grew out of actual loans, the records of the loan-offices proved a great preponderance of Northern lenders. Most of the remainder of the debt originated in certificates for supplies furnished to the army; and that the great bulk of these supplies had been drawn from New York, Pennsylvania, and New Jersey, was a matter beyond any dispute. That a considerable proportion of the certificates originally issued at the South had passed into Northern hands was undoubtedly true; but this was only a natural and inevitable result of the course of trade, and of the fact that the few capitalists of the country able to wait the leisure of the United States were chiefly to be found in the Northern section. So far as respected personal benefit to individuals, the North, no doubt, had a greater interest than the South in the funding of the public debt; but in the great national benefits of that measure, the re-establishment of credit, public and private, and the impulse thereby given to every branch of industry, all sections of the Union shared alike. But these were benefits which the Republican opposition had neither the sagacity to perceive, nor, had they perceived them, the candor to recognize.

The idea that the amount of the debt had been swelled by adding together the debtor and creditor side of accounts, had reference, it is probable—but what reference exactly it is not easy to tell—to the assumption of the state debts, a measure of which, at this day, no one will dispute either the justice or the wisdom. The notion that the transfer of the debt to foreign holders

would be an injury to the country, that the interest of the debt so transferred could only be paid by the export-  
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 ation of coin, and that all capital invested in stocks was 1792.  
 so much withdrawn from commerce and agriculture, evinced no very great knowledge of finance or political economy ; nor was this horror of foreign creditors very compatible with the idea of paying off the debt in two thirds of the time by borrowing at two thirds of the interest, which only could have been done, if at all, by converting the domestic into a foreign debt.

These carping criticisms on the funding system—the established privilege of opposition—were indeed of very little consequence compared with the more serious charges urged by Jefferson, and of which he must be taken to be the responsible endorser, if not the original author, of the existence of “ a corrupt squadron deciding the voice of the Legislature,” and under the control of a monarchical party, who intended to avail themselves of the majority thus obtained to overthrow the existing republican system, and to establish in its place a monarchy after the British model. Who were the individuals composing this corrupt squadron? In what particular way had they been corrupted? To the like charges of corruption and corrupt influence, reiterated in *Freneau's Gazette*, it had been well replied by the Federal newspapers that, until the individuals intended were pointed out, until specific cases of corruption were stated, this accusation, hanging unfixed over the heads of some fifty members of Congress—that being the number, both houses included, of those who had sustained the funding system throughout—must be regarded as an impotent piece of malice, contemptible alike for its falsehood and its cowardice. To this reasonable challenge, repeated afterward on the floor of the House, no reply was ever



CHAPTER made ; and this charge of corruption, affecting the honor  
V. of some of the most distinguished men whom the nation  
1792. has ever produced, was left to rest on vague suggestions, that several members of the first Congress were large holders of the public debt, and that two or three of them, among whom Sedgwick and Smith, of South Carolina, were afterward specified in private letters or by irresponsible pamphleteers, had gained money by buying up stocks in anticipation of the adoption of the funding system.

But it was not merely as to the funding system that corruption was charged to exist. The funding of the public debt was not an end, but a means. The same corrupt squadron by whom that measure had been carried, by means of that very measure had been purchased up generally to do the bidding of the Secretary of the Treasury—such was the charge—having sold themselves, in fact, as tools to a conspiracy for overturning the Federal Constitution, and setting up a monarchy in its place. Under this strange hallucination of a monarchical conspiracy for the destruction of the Constitution on the part of those by whom its adoption had been secured, from which the country was only saved by the republican zeal and virtue of himself and his anti-Federal friends and supporters, Jefferson labored to his dying day ; and to impose a like delusion on posterity seems to have been one chief object of the carefully prepared collection of papers and letters which he left behind him for publication.

Of Jefferson's political bigotry we have already had occasion to speak. With a very acute intellect, he had in his constitution a strong tinge of fanaticism. His imagination so far predominated over his reason as to lead him to see things, not as they were, but as he hoped.

wished, suspected they might be ; and, as is very apt to be the case with men of a fanatical turn of mind, there was nothing bad which he did not suspect of those who did not share in and subscribe to all his dogmas. Suspicions and facts he confounded together into one indistinguishable mass. The mere figments of his imagination or the circulating scandals of the day seemed to him more actually facts than the very facts passing before his eyes. This quality of mind was inconsistent with sound judgment, but it admirably qualified him for a party leader in excited times, bringing him into close sympathy with that great mass who feel keenly, guess wildly, reason little, and believe unhesitatingly.

What Washington thought of this pretended monarchical conspiracy, and of the general course pursued by the opposition, of which Jefferson began now to be the recognized head, sufficiently appears by a conversation which took place at Philadelphia shortly after Washington's return from Mount Vernon, of which Jefferson has preserved a memorandum in his Ana. Jefferson's letter not having found Washington at Mount Vernon, had followed him back to Philadelphia. In an interview on the subject of it, Washington remarked, " that, with respect to the existing causes of uneasiness, he thought that there were suspicions against a particular party which had been carried a great deal too far. There might be desires, but he did not believe there were designs to change the form of government into a monarchy. There might be a few who wished it in the higher walks of life, particularly in the great cities, but the main body of the people in the Eastern States were as steady for Republicanism as in the Southern. Pieces lately published, and particularly in Freneau's paper, seemed to have in view the exciting opposition to the government, and

CHAPTER V. this had already taken place in Pennsylvania as to the  
1792 excise law. These pieces tended to produce a separation of the Union, the most dreadful of all calamities; and whatever tended to produce anarchy, tended, of course, to produce a resort to monarchical government. He considered those papers as attacking him directly, for he must be a fool indeed to swallow the little sugar-plums here and there thrown out to him. In condemning the administration of the government, they condemned him; for if they thought measures were pursued contrary to his judgment, they must consider him too careless to attend to, or too stupid to understand them. He had, indeed, signed many acts which he did not approve in all their parts, but he had never put his name to one which he did not think eligible on the whole. As to the bank, which had been the subject of so much complaint, until there was some infallible criterion of reason, differences of opinion must be tolerated. He did not believe that the discontent extended far from the seat of government. He had seen and spoken with many in Maryland and Virginia during his last journey, and had found the people contented and happy. He defended the assumption of the state debts on the ground that it had not increased the total amount to be paid. All of it was honest debt, and whether paid by the states individually or by the Union, it was still alike a burden on the people. The excise he defended as one of the best laws that could be passed, nobody being obliged to pay who did not elect to do so."

The great seat of this supposed monarchical conspiracy Jefferson imagined to be the Eastern States, precisely that part of the Union of which he knew least, having never had any relations of business or intercourse with it; yet, beyond all question, the part of the Union in

which republican ideas were most thoroughly established and most completely carried into practice. Having, in CHAPTER V. the course of the Revolutionary war, been brought into 1792. intimate connection with New England, Washington knew thoroughly the character of that people; and however Jefferson might surpass him in some other qualities, in freedom from passion and prejudice, in sound judgment as to the realities of life, there was no comparison between them. In New England, as elsewhere, some few individuals might have entertained a speculative preference for monarchy. They might even have believed, as seems to have been the case with Adams and Hamilton, that, with the progress of wealth, population, and civil dissensions, and perhaps speedily in the latter case, such a form of government, through the inevitable tendency of things, would be ultimately established. But that Hamilton, or Adams, or any body else had any plan or scheme for bringing about such a change—that there was really on foot any such monarchical conspiracy as Jefferson suggested—was, as Washington pronounced it, an idea utterly baseless. Preliminary to a plot for establishing a monarchy, it would be necessary to fix upon somebody for king; nor was there any other person but Washington whom any body could have thought of for such a purpose. Yet of Washington's inflexible republicanism not even Jefferson, who has spared nobody else, ever presumed to breathe a doubt, unless, indeed, such a doubt may seem to be implied in the care taken to record the insensibility and incredulity of that great man as to dangers from this monarchical conspiracy, from which we are, perhaps, impliedly called upon to believe that the country was saved even in spite of Washington himself.

The antagonistic modifications of political sentiment

CHAPTER V. prevailing in the United States were very far indeed from being monarchical and republican. Whatever fan-  
 1792. cies some individuals might indulge in, monarchy, as a practical matter, was just as little thought of then as now. The only real controversy was as to the amount of democracy which safely could be and ought to be infused into the republican system adopted as well by the Union as by the separate states; for all admitted the distinction taken by Madison in the *Federalist*, that the American governments were not proper democracies, but representative republics, the difference being this, that in democracies the main conduct of affairs is directly in the hands of the people, whereas, in representative republics, instead of acting directly themselves, the people intrust the conduct of affairs to certain agents selected for that purpose.

Though the American governments gave great weight to the voice of the people, acknowledged to be the source and origin of all authority—a weight which has gradually and greatly increased with the increased diffusion of political intelligence—they were very far from being such purely democratic republics as Paine advocated in his “*Rights of Man*,” and as Jefferson, by his approbation bestowed upon that work, seemed theoretically to approve. This was especially the case with that Federal Constitution of which Jefferson now claimed to be the true friend and supporter against its unnatural fathers, accused of seeking to distort it into a monarchy; and the case also especially with that particular construction of the Constitution upon which he insisted as the only one consistent with republican liberty. How was it possible to reconcile with the democratic theory of the sovereign power of numerical majorities that doctrine of state rights of which, as leader of the late anti-Federal, now

Republican party, Jefferson was the especial champion? CHAPTER  
 The very fundamental compromises on which the Fed- <sup>V.</sup> —  
 eral Constitution rested, the equal vote of the states in 1792.  
 the Senate, the extra weight given to the South by al-  
 lowing a representation of slave property, were remark-  
 able departures from the democratic idea.

The recognition of the judiciary as a third and independent branch of the government, and the principles on which that judiciary was constituted, as well in most of the states as under the Federal Constitution, were equally inconsistent with pure democracy. In a pure democracy the judiciary would have been what Paine maintained it ought to be, a mere branch of the executive, the judges being annually chosen by the people, and directly responsible to them. Under the American Constitutions this important function was exercised by a small body of judges, holding office, except in two or three states, during good behavior, and selected, not from the citizens at large, but from the limited profession of the law. The custom of colonial times, of placing non-professional judges on the bench, had been quite superseded as to the higher tribunals, and even in the inferior tribunals the principal and presiding judge was generally a lawyer. The law administered by these tribunals consisted not alone of legislative enactments, but included also the common law of England, adopted in all the states, with various local modifications, as a component part of American jurisprudence. The more learned the bar and bench became, the more attention was paid to common law doctrines and to English precedents; whence followed the curious result, that, so far as actual practice went, the law of England became much more extensively the law of America after the Revolution than it had been before. Nor was the power possessed by these tribunals, so per-

CHAPTER V. manent in their tenure of office, and filled up from so

1792. narrow a class, limited at all to the mere decision of particular controversies. Under the form of declaring the law, they possessed, in all doubtful and disputed cases, a real legislative authority, and in the exercise of that authority have contributed, perhaps, not less than the nominal legislators, to make up the system of American jurisprudence.

The body of lawyers attached to these tribunals, essential, indeed, to their operation, and from among whom the supply of judges was exclusively drawn, associated together under certain rules for their own benefit, and possessing that invaluable juridical knowledge which to the great mass of the people was a mystery, constituted a sort of separate and superior order in the state. The education and habits of this class were by no means such as to incline them to ultra-democratical ideas. The usage, indeed, of trials by jury introduced something of democracy into the administration of justice; but the jury was, for the most part, in strict subordination to the court; and the lawyers, as a body, inclined strongly to the opinion that, however the people might be trusted with the election of representatives and of a few local officers, they would do well, in political as in legal matters, to rely with pretty implicit confidence on those whom they had chosen as their attorneys, without venturing themselves upon any very direct interference with the management of affairs.

Of the same opinion were the clergy and the leading members of the great religious sects. Indeed, the theological doctrine of the natural depravity of mankind, and that goodness is only to be found in the regenerate, could not be reconciled, without some difficulty, with the theory of the capacity of mankind to govern themselves

The existence of a select class of church members, raised by spiritual gifts above the ordinary level, would naturally harmonize with the idea of a select class also in secular matters, to whose superior wisdom and virtue the administration of affairs might more safely be intrusted.

The merchants and capitalists, mostly men who had raised themselves by their own superior energy and sagacity to a position above the vulgar level, were little disposed to descend again to that level on questions of political concernment; and this feeling would naturally exist, to a still stronger degree, among the large landed proprietors of the Middle States and the slave-holding planters of the South.

The classes above enumerated might be considered as constituting the natural aristocracy of the Union and the states, disposed, from their superior education and social position, to regard the chief direction of public affairs as properly appertaining to them, and not inclined to give to the democratic principle any further extension than it had already attained; indeed, disposed perhaps somewhat to curtail it.

What might be called the natural democracy of the Union consisted of the great body of small land-holders, the mass of the free inhabitants, men who cultivated their own farms with their own hands; in virtue of that inherent power which superior wealth, knowledge, and social position every where carry with them, and which no formal declaration of equality can ever take away, swayed, indeed, in all the states, to a very great extent, by the classes above enumerated; but still watching with jealous eyes every thing which tended to curtail their political rights, or which seemed to look like special legislation for the benefit of particular classes.

It would, however, be a very great mistake to suppose



CHAPTER V. that the line of separation between the political parties of the Union, either at this or at any other period, at 1792. all coincided with the above classification into a natural aristocracy and a natural democracy. The same thing has happened in the United States which has happened in all other communities; the great political divisions have arisen not so much from any direct contest between the principles of aristocracy and democracy, as from the factions into which the natural aristocracy has split; the democracy chiefly making itself felt by the occasional unanimity with which it has thrown itself into the scale of one or other of such contending factions. Generally speaking, however, no such unanimity has been perceptible, each faction of the natural aristocracy having on most occasions been able to carry with it a majority at least of that section of the natural democracy most immediately within the circle of its influence.

In the division of parties which took place on the question of the funding system and the general policy of the new federal government, the lawyers, the clergy, the merchants and capitalists, the great land-holders in the Middle States, almost all the educated and intelligent men of the North, united quite generally in favor of Hamilton's measures; and their influence had been sufficient, thus far, to give to those measures the support of the Northern States. South of the Potomac the planters were all-powerful, while the other sections of the natural aristocracy counted in those states for little or nothing in comparison; and as the planters were generally opposed to the funding system, they had little difficulty in carrying those states into an opposition to the federal administration, an opposition into which the outcry so loudly raised in those states against the Constitution itself was by this time pretty generally merged.

Looking only to fundamentals, no two classes in the community might seem more naturally antagonistic than the small, self-working agricultural proprietors of the Northern States, and the possessors of large plantations cultivated by slaves. There were, however, some accidental circumstances which brought these two classes into close sympathy, giving rise to relations which produced a remarkable effect on the politics of the United States, through the traditionary influence of party names and associations, prolonged, in some degree, even to the present time.

The expenses and efforts of the Revolutionary war had left not only the states and the confederacy, but individuals also, greatly burdened with debt. Almost all the small land-holders had been obliged to struggle at once against tax-gatherers, state and national, and their own creditors. It was this state of things which in Rhode Island, where these embarrassed land-holders had obtained control of the government, had produced the paper money tender laws, and in Massachusetts, where they had failed to do so, the insurrection, headed by Shays. But this pecuniary embarrassment was not confined to the small land-holders. It extended in almost equal degree to the greater part of the Southern planters, who, besides their more recent debts, found hanging over their heads, in consequence of the powers given to the general government to enforce the treaty with Great Britain, that large mass of ante-Revolutionary claims on the part of English merchants already more than once referred to. To meet this general state of indebtedness, paper money had been freely issued in Georgia and the Carolinas, and stop and tender laws enacted. In Virginia, this precaution against creditors was carried still further, being made to assume a permanent form by a repeal, toward the end of the

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 1792 present year, of the old law common hitherto to Virginia and all the other states, by which lands were liable to be seized on execution. For that seizure was substituted the aristocratic English writ of *eligiti*, the creditor being reduced to a choice between a process against the person or movable goods of his debtor, or against the rents and profits of one half his lands, possession of that half to be delivered to him, by appraisement, for a period nominally sufficient to pay the debt. But from the over-estimate always made in such cases, this law became nearly equivalent, in practice, to an exemption of lands from execution.

It was on this common ground of pecuniary distress that so many, both of the aristocratic planters and of the democratic farmers, had united against the Federal Constitution, which they justly regarded as the work of the creditor party, intended and likely to lead to a strict enforcement of contracts, both public and private. A common reluctance to pay, a common dread of taxation, a common envy of the more fortunate moneyed class, whose position had been so palpably improved by the funding of the public debt—though little more so, in reality, than the position of every body else—made both farmers and planters join in those clamors against the funding system, into which Jefferson and his co-operators, not content with a mere re-echo of them, sought to infuse a new bitterness by dark charges of corruption and alarming insinuations of anti-Republican designs.

Added to this was another feeling, which served to bind this sympathy still closer, and to give to it a more permanent character—a common feeling of hatred toward Great Britain, more intense in these two classes than in any others, and soon roused into vigorous action as well by domestic events as by the progress of the

French Revolution, and the war between France and England growing out of it. Pending the Revolutionary struggle, every art had been used to inflame the public mind against Great Britain, and accordingly as men were more or less vindictive, or more or less under the operation of aggravating or soothing causes, this temporary inflammation had produced results more or less chronic. As a general rule, the educated and reflecting are the first to rise above the excitements of passion, whether particular or national. The lawyers, chief leaders of the conservative party, by the very nature of their studies, soon softened toward the country whence flowed the jurisprudence of the common law. The great religious sects were drawn by powerful sympathies toward their counterparts in Great Britain. Pecuniary interest and the intercourse of trade soon effaced from the minds of the merchants almost all traces of the recent struggle. But the agricultural masses of the North continued to hate with the fixed intensity natural to a rural population, which does not easily change, and to this feeling by far the larger portion of the Southern people, of all classes, very heartily responded. The war, during its latter years, had been almost exclusively confined to the South, and had been carried on there in a very revengeful and ferocious spirit. Virginia had been repeatedly ravaged; Georgia and the Carolinas had been made to suffer under the effects, not only of invasion from abroad, but of Indian and civil war. In the bitter hatred which these ravages had left in many breasts, Jefferson himself very warmly participated. One of the invasions had taken place while he was governor, and the public calamities occasioned by it had not only driven him to resign his office, but had even threatened to subject him to the mortification of an impeachment; he

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1792. had a very narrow escape from personal capture; one of his plantations had been ravaged, and a large number of slaves carried off. Thus, by his own personal experience, was Jefferson strongly impelled to sympathize with a feeling which soon came to exercise a powerful influence over national politics, and which served as a new and more permanent bond of union between that Southern section of the natural aristocracy headed by Jefferson, and a large mass of the democracy of the North. The natural democracy of the South, the body of poor, non-slave-holding freemen, sympathized also in this same hatred of Great Britain, and their voices helped to swell the cry. But this class then, as now, were of very little account in politics, which in the South have been always under the exclusive control of the slave-holding planters.

Jefferson, indeed, saw in himself—such are the delusions to which ardent temperaments are liable—and he labored to persuade Washington to see in him the head of a republican party struggling against the corrupt machinations of Hamilton and others, who were seeking to impose a monarchical Constitution on the country. The simple fact of the matter seems to have been, as, indeed, is apparent from several parts of his own letter, quoted above, that he was merely the head of a party, chiefly Southern, exceedingly angry at not having been able to dictate the management of federal affairs, hostile to the funding system, and resolved to make some alterations in it. The reasons which he held out to Washington for consenting to a re-election were, in brief, the danger of a desperate assault on the government by the Northern Federalists, should they fail to obtain a majority in the new Congress, and the still greater danger, if they did obtain such a majority, of a secession from the Union on the part of the Southern States. But as the

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question at this moment seemed to lie between the con-  
tinuance of Washington in office and the successorship  
of some Northern federal man, either Adams or Jay, 1792.  
Jefferson might also have strong private as well as pub-  
lic reasons for the advice which he gave.

Though Hamilton does not seem to have looked upon  
matters in quite so alarming a light, he was not less ur-  
gent with Washington still to maintain his place at the  
helm. "It is clear, says every one with whom I have  
conversed," so he wrote shortly after Washington's de-  
parture for Mount Vernon on a second visit, "that the  
affairs of the national government are not yet firmly es-  
tablished; that its enemies, generally speaking, are as  
inveterate as ever; that their enmity has been sharpened  
by its success, and by all the resentments which flow  
from disappointed predictions and mortified vanity; that  
a general and strenuous effort is making in every state  
to place the administration of it in the hands of its ene-  
mies, as if they were its safest guardians; that the pe-  
riod of the next House of Representatives is likely to  
prove the crisis of its permanent character; that if you  
continue in office, nothing materially mischievous is to be  
apprehended; if you quit, much is to be dreaded; that  
the same motives which induced you to accept originally  
ought to decide you to continue till matters have assumed  
a more determinate aspect; that, indeed, it would have  
been better, as regards your own character, that you had  
never consented to come forward, than now to leave the  
business unfinished, and in danger of being undone; that,  
in the event of storms arising, there would be an impu-  
tation either of want of foresight or want of firmness;  
and, in fine, that on public and personal accounts, on  
patriotic and prudential considerations, the clear path to  
be pursued by you will be again to obey the voice of

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your country, which, it is not doubted, will be as earnest and unanimous as ever."

1792. In order to a complete view of the light in which things presented themselves to those at the center of affairs, and as tending to show what it was that the party in opposition really contemplated, it is necessary to add a letter addressed to Washington on the same topic by Randolph, the attorney general, who affected to hold a sort of balance in the cabinet between the two rival secretaries, though commonly disposed to side with Jefferson, as Knox, the other cabinet counselor, always was with Hamilton. "It can not have escaped you," wrote

Aug. 5. Randolph, "that divisions are formed in our politics as systematic as those which prevail in Great Britain. Such as opposed the Constitution from a hatred to the Union can never be conciliated by any overture or atonement. By others it is meditated to push the construction of the federal powers to every tenable extreme. A third class, republican in principle, and thus far, in my judgment, happy in their discernment of our welfare, have, notwithstanding, mingled with their doctrines a fatal error, that the state assemblies are to be resorted to as the engines of correction to the federal administration. The honors belonging to the chief magistracy are objects of no common solicitude to a few who compose a fourth denomination.

"The ferment which might be naturally expected from these ingredients does actually exist. The original enemies not only affect to see a completion of their malignant prophecies, but are ready to improve every calumny to the disgrace of the government. To their corps are or will be added, in a great measure, the mistaken friends of republicanism, while the favorers of the high tone are strenuous in the prosecution of their views.

"The real temper, however, of the people is, I believe, strictly right at this moment. Their passions have been tried in every possible shape. After the first tumult excited by the discussion of the Constitution had abated, several acts of Congress became the theme of abuse. But they have not yet felt oppression, and they love order too much to be roused into a deliberate commotion, without the intervention of the most wicked artifices. They will, it is true, be told, at the meeting of every state Legislature, that Congress have usurped. But this, if unfounded, will be ascribed to the violence of those who wish to establish a belief that they alone can save the individual states from the general vortex, by being elected into the federal councils.

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"It is much to be regretted that the judiciary, in spite of their apparent firmness in annulling the pension law, are not, what some time hence they will be, a resource against the infractions of the Constitution on the one hand, and the steady assertor of the federal rights on the other. So crude is our judiciary system, so jealous are state judges of their authority, so ambiguous is the language of the Constitution, that the most probable quarter from which an alarming discontent may proceed is the rivalry of these two orders of judges. The mere superiority of talent in the federal judges (if, indeed, it were admitted) can not be presumed to counterbalance the real talents and full popularity of their competitors. At this instant, too, it is possible that the federal judges may not be so far forgetful of their connection with the state governments as to be indifferent about the continuance of their old interest there. This, I suspect, has, on some occasions, produced an abandonment of the true authority of the government. Besides, many severe experiments, the result of which can not be foreseen,



CHAPTER V. await the judiciary. States are brought into court as defendants to the claims of land companies and individ-

1792. uals; British debts rankle deeply in the hearts of one part of the United States; and the precedent fixed by the condemnation of the pension law, if not reduced to its precise principles, may justify every constable in thwarting the laws.

"In this threatening posture of affairs we must gain time, for the purpose of attracting confidence to the government by an experience of its benefits; and that name alone, whose patronage secured the adoption of the Constitution, can check the assaults which it will sustain at the two next sessions of Congress.

"The fiscal arrangements will have various degrees and kinds of ill humor to encounter. Objectionable as they were at first to myself in many respects, yet am I assured that they can not now be changed without a convulsion to public credit. Can any new project be suggested free from blemish? Have not the clamors of the people concerning the assumption subsided? Can any tax be substituted for the excise without rekindling those very complaints which the excise generated, but which have now almost died away? If any thing can prevent machinations like these, it will be a reverence for your official character; if any thing can crush them, it will be your negative.

"Another of the efforts meditated against the public debt is to destroy its irredeemability. I sincerely wish that this quality had never been given to it. But how can we tread back the ground upon which European money-holders have been led into our funds? The injury to the United States can never amount to more than the difference between the interest which we pay, and some lower rate at which perhaps we might borrow

to discharge the debt. Borrow we must for such an object, since the sum which we are free to wipe off, according to our stipulation, is equal to our present ability. And is this chance of advantage a sufficient temptation on which to hazard our half-fledged reputation? What should you say, sir, if for this purpose a land tax should be laid by Congress which shall not take effect unless the states should neglect to raise the money by their own laws? I think it would soon be discovered that such a measure would insensibly restore requisitions. These evils are also within the scope of your control.

“The fuel which has been already gathered for combustion wants no addition. But how awfully might it be increased, were the violence which is now suspended by a universal submission to your pretensions let loose by your resignation. Those Federalists”—Randolph must here be supposed to mean those persons calling themselves friends of the Federal Constitution—“who can espouse Mr. Clinton against Mr. Adams as vice-president, will not hesitate at a more formidable game. The Constitution would not have been adopted but from a knowledge that you had once sanctioned it, and an expectation that you would execute it. It is in a state of probation. The most inauspicious struggles are past; but the public deliberations need stability. You alone can give them stability. Should a civil war arise, you can not stay at home. And how much easier will it be to disperse the factions which are rushing to this catastrophe, than to subdue them after they shall appear in arms!”

While this correspondence was still going on between Washington and his secretaries, the feelings of hostility between Hamilton and Jefferson reached a new pitch of

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aggravation. The attacks upon the financial policy of the government, kept up with untiring pertinacity in 1792. Freneau's Gazette, provoked Hamilton at last to publish a newspaper article, under the signature of "an American," in which attention was called to Freneau's paper as the organ of the Secretary of State, specially set up by him for that purpose, and edited by a clerk in his office, a connection represented by "an American" as indelicate, unfit, and inconsistent with those pretensions to extraordinary republican purity of which so suspicious a parade was exhibited upon every occasion. If Mr. Jefferson disapproved of the government itself, how could he reconcile it to his own personal dignity and the principles of probity to hold office under it, and to employ the means of official influence in opposition? If he disapproved of the leading measures of the administration, how could he reconcile it with the principles of delicacy and propriety to hold a place in that administration, and at the same time to be instrumental in vilifying measures which had been adopted by both branches of the Legislature, and sanctioned by the chief magistrate of the Union? As a key to his conduct in this matter, the additional statements were made that Jefferson, at first, was opposed to the Constitution and against its adoption; and further, that he was the declared opponent of almost all the important measures of the government, especially those relating to the finances and the public debt. The article concluded with an eloquent contrast, as to the effect upon the public welfare, between the policy adopted by the government and that advocated by the party of which Jefferson seemed to aspire to be the leader.

Just before this attack upon him appeared, Jefferson had left Philadelphia on a visit to Monticello. Freneau

came out with an affidavit denying that he had ever had CHAPTER V.  
any negotiations with Jefferson as to the establishment  
of his paper, or was ever controlled or influenced by him 1792.  
in its management, or that he ever wrote or dictated a  
line for it. But to this "an American" replied, that  
facts spoke louder than words, and, under certain cir-  
cumstances, louder than oaths, and it was still insisted  
that Freneau's paper was Jefferson's organ. It was  
not at Freneau, but at Jefferson, so this second article  
stated, that these strictures had been aimed, their object  
being to expose a public officer who had not scrupled to  
embarrass and disparage the government of which he was  
a member; the prompter, open or secret, of unwarrant-  
able aspersions on men who, so long as actions, not merely  
professions, should be taken as the true test of patriotism  
and integrity, need never decline a comparison with him  
as to their titles to public esteem.

These articles, at once ascribed to Hamilton, produced  
a great excitement among Jefferson's friends, and drew  
out several answers, to which Hamilton in due time re-  
plied. As soon as Washington, then at Mount Vernon,  
became aware of the breaking out of this newspaper war,  
he made an effort to bring about a truce between his ri-  
val and angry secretaries. In a letter to Jefferson, after Aug 23  
detailing some information just received from the front-  
iers tending to show British and Spanish intrigues with  
the Indians, he added, "How unfortunate and how much  
to be regretted it is that, while we are encompassed on  
all sides with avowed enemies and insidious friends, in-  
ternal dissensions should be harrowing and tearing out  
our vitals? The latter, to me, is the most serious, the  
most alarming, the most afflicting of the two; and with-  
out more charity for the opinions and acts of others in  
governmental matters, or some more infallible criterion

CHAPTER than has yet fallen to the lot of humanity, by which the  
V. truth of speculative opinions, before they have undergone

1792. the test of experience, is to be forejudged, I believe it will be difficult, if not impracticable, to manage the reins of government, or to keep the parts of it together ; for if, instead of laying our shoulder to the machine after measures are decided on, one pulls this way and another that, before the utility of the thing is fairly tried, it must inevitably be torn asunder ; and, in my opinion, the fairest prospect of happiness and prosperity that ever was presented to man will be lost perhaps forever.

“My earnest wish and my fondest hope therefore is, that instead of wounding suspicions and irritating charges, there may be liberal allowances, mutual forbearances, and temporizing yieldings on all sides. Under the exercise of these, matters will go on smoothly, and, if possible, more prosperously. Without them, every thing must rub ; the wheels of government will clog ; our enemies will triumph, and by throwing their weight into the diseased scale, may accomplish the ruin of the goodly fabric we have been erecting.

“I do not mean to apply this advice or these observations to any particular person or character. I have given them in the same general terms to other officers of the government, because the disagreements which have arisen from difference of opinions, and the attacks which have been made upon almost all the measures of government, and most of its executive officers, have for a long time past filled me with painful sensations, and can not fail, I think, of producing unhappy consequences at home and abroad.”

Two or three days after he wrote to Hamilton to the same effect, but perhaps a little more pointedly. The answers returned were sufficiently characteristic of the

writers. "It is my most anxious wish," wrote Hamilton, "as far as may depend upon me, to smooth the path of your administration, and to render it prosperous and happy. And if any prospect shall open of healing or terminating the differences which exist, I shall most cheerfully embrace it, though I consider myself as the deeply injured party. The recommendation of such a spirit is worthy of the moderation and wisdom which dictated it; and if your endeavors should prove unsuccessful, I do not hesitate to say that, in my opinion, the period is not remote when the public good will require substitutes for the differing members of your administration. The continuance of a division there must destroy the energy of government, which will be little enough with the strictest union. On my part there will be a most cheerful acquiescence in such a result."

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"I trust, sir, that the greatest frankness has always marked, and will always mark, every step of my conduct toward you. In this disposition I can not conceal from you that I have had some instrumentality of late in the retaliations which have fallen upon certain public characters, and that I find myself placed in a situation not to be able to recede for the present.

"I considered myself compelled to this conduct by reasons public as well as personal, of the most cogent nature. I *know* that I have been an object of uniform opposition from Mr. Jefferson from the moment of his coming to the city of New York to enter on his present office. I know, from the most authentic sources, that I have been the frequent subject of the most unkind whispers and insinuations from the same quarter. I have long seen a formed party in the Legislature under his auspices bent upon my subversion. I can not doubt, from the evidence I possess, that the National Gazette

CHAPTER V. was instituted by him for political purposes, and that one leading object of it has been to render me, and all the 1792. measures connected with my department, as odious as possible.

“Nevertheless, I can truly say that, except explanations to confidential friends, I never, directly nor indirectly, retaliated or countenanced retaliation till very lately. As long as I saw no danger to the government from the machinations that were going on, I resolved to be a silent sufferer of the injuries that were done me. I determined to avoid giving occasion to any thing which could manifest to the world dissensions among the principal characters of the government—a thing which can never happen without weakening its hands, and in some degree throwing a stigma upon it.

“But when I no longer doubted that there was a formed party deliberately bent upon a subversion of measures which, in its consequence, would subvert the government; when I saw that the undoing of the funding system in particular was an avowed object of the party, which, whatever may be the original merits of that system, would prostrate the credit and honor of the nation, and bring the government into contempt with that description of men who are in every society the only firm supporters of government, and that all possible pains were taking to produce that effect by rendering the funding system odious to the body of the people, I considered it as a duty to endeavor to resist the torrent, and, as an effectual means to that end, to draw aside the veil from the principal actors. To this strong impulse, to this decided conviction, I have yielded; and I think events will prove that I have judged rightly.

“Nevertheless, I pledge my honor to you, sir, that if you shall hereafter form a plan to reunite the members

of your administration upon some steady principle of co-  
operation, I will faithfully concur in executing it during  
my continuance in office ; and I will not, directly or in-  
directly, say or do a thing that shall endanger a feud."

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Here was a letter, like the writer, indignant under a sense of injury, strong in conscious integrity, exhibiting a calm confidence of ability to repel all assaults and to punish the aggressor, but without bitterness, malice, or any thing like an implacable spirit.

Jefferson's letter, dated on the same day, and written from Monticello, is in a very different strain, made up, in a great measure, of a violent attack upon Hamilton and his system of policy, reiterating as his own, and as matter of fact, those gross charges of corruption which, in his previous letter, already quoted, he had conveyed to Washington merely as "hackneyed in the public papers," and with the qualification of being "real or imaginary." "When I embarked in the government," he writes, "it was with a determination to intermeddle not at all with the legislative, and as little as possible with the co-departments. The first and only instance of variance from the former part of my resolution I was duped into by the Secretary of the Treasury, and made a tool for forwarding his schemes, and, of all the errors of my political life, this has occasioned me the deepest regret." The allusion here was to Jefferson's agency in bringing about the log-rolling compromise, by which the assumption of the state debts and the fixing of the seat of government on the Potomac were coupled and carried together. His own account of that matter as given in his *Ana*, and already referred to, abundantly shows that this pretense of having been duped on that occasion was but a lame apology for his subsequent course, amounting only to this, that, not having very fully considered the mat-



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 1792. ter, and being told that the refusal to assume the state debts endangered the stability of the Union, he had concurred in bringing about an arrangement; not being aware at the time that this assumption was soon to become one of the principal grounds of opposition to the financial policy of the government, of which opposition he was himself to be the leader.

“If it has been supposed,” the letter adds, “that I have ever intrigued among the members of the Legislature to defeat the plans of the Secretary of the Treasury, it is contrary to all truth. As I never had the desire to influence the members, so neither had I any other means than my friendships, which I valued too highly to risk by usurpations on their freedom of judgment, and the conscientious pursuit of their own sense of duty.” He had not intrigued, it seems, he had only denounced; for the letter immediately adds, “That I have utterly, in my private conversations, disapproved of the system of the Secretary of the Treasury, I acknowledge and avow: and this was not merely a speculative difference. His system flowed from principles adverse to liberty, and was calculated to undermine and demolish the republic, by creating an influence of his department over the members of the Legislature. I saw this influence actually produced, and its first fruits to be the establishment of the great outlines of his project by the votes of the very persons who, having swallowed his bait, were laying themselves out to profit by his plans; and that, had these persons withdrawn, as those interested in a question ever should, the vote of the disinterested majority was clearly the reverse of what they made it. These were no longer, then, the votes of the representatives of the people, but of deserters from the rights and interests of the people, and it was impossible to consider their decision, which

had nothing in view but to enrich themselves, as the measures of the fair majority, which ought always to be respected." Not content with thus denouncing his rival, as having secured the control of Congress by corrupt means, Jefferson proceeded to conjure up similar dangers yet to come. "If what was actually done begat uneasiness in those who wished for virtuous government, what was further proposed was not less threatening to the friends of the Constitution. For, in a report on the subject of manufactures (still to be acted on), it was expressly assumed that the general government has a right to exercise all powers which may be for the general welfare; that is to say, all the legitimate powers of government, since no government has a legitimate right to do what is not for the welfare of the governed. There was, indeed, a sham limitation of the universality of this power to cases where money is to be employed. But about what is it that money can not be employed? Thus the object of these plans, taken together, is to draw all the powers of government into the hands of the general Legislature, to establish means for corrupting a sufficient corps in that Legislature to dividè the honest votes and preponderate by their own the scale which suited, and to have that corps under the command of the Secretary of the Treasury; for the purpose of subverting, step by step, the principles of the Constitution, which he has so often declared a thing of nothing, which must be changed."

But while Jefferson had thus, in his own opinion, very delicately and scrupulously abstained from any interference with the Treasury Department—contenting himself with privately denouncing to such members of Congress as he was intimate with, and, indeed, to the president himself, the whole policy of the Secretary of the Treasury as totally corrupt, both in theory and practice, and

CHAPTER V. threatening speedy destruction to the liberties of the country—Hamilton, he complained, had exhibited no such delicacy toward him. The management of foreign affairs belonged to his department, yet Hamilton had repeatedly interfered, “by cabals with members of the Legislature, and high-toned declamations on other occasions,” to defeat Jefferson’s favorite scheme of discriminating duties in favor of France and to the disadvantage of England, and to force down his own system of equal duties upon all imports, whether from nations in treaty or not.

1792. Having thus explained his differences with Hamilton as arising solely out of a disinterested devotion on his part to the purity of the administration and the liberties of the country, while Hamilton was the desperate enemy of both, Jefferson’s letter proceeds to advert, in the same bitter spirit, to the recent strictures on his conduct, published under the signature of “an American,” but which, from “their style, manner, and venom,” he did not hesitate to ascribe to Hamilton. The charge of anti-Federalism he pronounces “most false,” and attempts to retort it upon Hamilton. The charge of being opposed to the payment of the public debt is disposed of in the same cursory manner. According to his account, the difference between him and Hamilton was this: he would wish the debt paid to-morrow, while Hamilton wished it never to be paid, but always to be a thing wherewith to corrupt and manage the Legislature. But how the debt could have been paid to-morrow, or paid at all—unless drawing a sponge through it was to be called payment—without a funding system, the same in its general features with that actually adopted, and against which he raised such perpetual clamors, neither on this nor on any other occasion did Jefferson ever attempt to explain. The whole burden, in fact, of his objections to the fund

ing system might, by critical examination, be resolved into this—the leading position in public affairs which Hamilton, as the author of it, had been enabled to assume. 1792.

But the most curious part of this letter was Jefferson's exculpation of himself from the charge of connection with Freneau's Gazette, especially considering the very remarkable coincidence of spirit, opinions, feelings, and even expressions, between this very letter and that newspaper. After repeated applications made to him on Freneau's behalf, such was his statement—he does not say by whom, but no doubt by Madison, the mutual friend of both parties, and whom Hamilton had pointed out in his articles as the active party in setting up the National Gazette—a vacancy having happened, shortly after the removal of the government to Philadelphia, in one of the four clerkships, the only patronage attached to his office, he had given that place to Freneau. The place, however, was a paltry one, the salary being only \$250 per annum. Whether it was before or after this appointment he could not tell, but he was very well pleased to hear that Freneau intended to set up a newspaper. Indeed, he had been anxious, and had already ineffectually attempted, in one or two other newspapers, to bring under Washington's eye and before the public the most material parts of the Leyden Gazette, in order to give a juster view of the affairs of Europe and of the progress of events in France than could be obtained by the commonly published extracts from the English papers. The union of the business of editor of a newspaper with that of translating clerk seemed to afford an excellent opportunity to give effect to this idea; and he had accordingly furnished Freneau with the Leyden Gazettes as they came, and had expressed a wish that he would translate and insert their most material

CHAPTER parts. As this was about the time that the writings  
 V. of Publicola and the Discourses on Davilla were exciting  
 1792. a good deal of public attention, and as Freneau was recommended to him as a good Whig, he took it for granted that free place would be given in the new paper to pieces against the aristocratical and monarchical principles of those writers. Perhaps he had recommended the paper on that ground; but in doing so he had looked only to the chastisement of the aristocratical and monarchical writers, and not to any criticisms on the proceedings of the government. Out of regard for Freneau as a man of genius, he had obtained subscriptions for his paper both before its publication and since; but he disclaimed any responsibility whatever for its contents, protesting, "in the presence of Heaven," that, except as to the extracts from the Leyden Gazette, he had never given any indication of a wish how the paper should be conducted. "I can further protest," so ran the letter, "in the same awful presence, that I never did, by myself or any other, directly or indirectly, write, dictate, or procure any one sentence or sentiment to be inserted in his or any other gazette to which my name was not affixed or that of my office. I surely need not except here a thing so foreign to my present subject as a little paragraph about our Algerine captives, which I put once into Fenno's paper."

Nothing, indeed, could be more different or remarkable than the positions respectively occupied by Jefferson and Hamilton in relation to the public press. Jefferson always spoke of the newspapers with all the marked contempt of old-fashioned times, as little better than vehicles of slander and abuse. He affected not to read them, and to write for them he seemed to think a degradation or worse. Yet no one was better aware than he of their

effects on public opinion, whether by way of argument or of declamation and personal attack. No one felt their stings more acutely, or was more anxious to turn even their most poisoned weapons against his opponents. Freneau was not the only newspaper editor, as we shall have occasion hereafter to see, with whom he formed pretty intimate relations, and who became the emphatic exponents of his bitter and not always very scrupulous enmities, however he might himself abstain from formal and actual authorship. As cautious how he committed himself in print as he was free-spoken in his private correspondence, of all the men of the Revolution capable of producing a newspaper essay, Jefferson was perhaps the only one who never touched pen to paper for the political enlightenment of the contemporaneous public. But that which he avoided to do himself, he was constantly stimulating others to do, of which frequent instances will appear in the progress of this history.

Hamilton, on the other hand, had first raised himself to notice, while yet a mere boy at college, by his contributions to the newspapers in defense of colonial rights. After the conclusion of the war, the same vigorous pen, employed in the same way, had exercised a decisive influence upon several important questions of the state policy of New York; and, in the well-known numbers of the *Federalist*, had contributed not a little to the adoption of the Federal Constitution. Finding himself and the whole policy of the federal government, of which he was so conspicuous a member, the objects of constant attack on the part of a newspaper which seemed to be mainly devoted to that single purpose, he did not esteem it any sacrifice of his personal dignity to unmask through a similar medium the real assailants, and to carry the war into the camp of the enemy. Jefferson affected to

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1792. consider the attack and the defense of the government in the two gazettes of *Freneau* and *Fenno*, as a sort of private controversy between two obscure newspaper rivals, which the government ought to be altogether too dignified to concern itself about in any way, and *Hamilton* as having greatly committed the decorum and even decency of the administration by condescending to enlist himself in the quarrel as an anonymous writer. *Hamilton*, on the other hand, considered it in no respect beneath his dignity, either as a man or a minister, to punish with his own pen assaults upon the government which he esteemed as dangerous as they were unjustifiable, and which, though made in the name of *Freneau*, came, as he believed, in spirit and in substance, if not in form, from *Jefferson* himself. He could hardly be called, in this case, an anonymous writer. The authorship of his pieces was recognized at once; no attempt was made to conceal it; nor did *Hamilton* resort to any shuffling to evade his responsibility in the matter. To be published without a name might be said to be of the essence of newspaper compositions. To have come out under his own name in retort upon anonymous adversaries, apart from other objections to it, would have been a piece of singularity which *Hamilton* had too much tact to adopt.

*Jefferson's* letter concluded with intimating his intention to retire from office at the close of *Washington's* current term. While dwelling on his own disregard of honors and emoluments, and his consciousness of having merited the esteem of his countrymen by an integrity which could not be reproached, and an enthusiastic devotion to their rights and liberty, he could not refrain from again denouncing *Hamilton* as a man whose history, "from the moment history could stoop to notice him," was "a tissue of machinations against the liberty of a

country which had not only received and fed him, but CHAPTER  
heaped its honors on his head." V.

It does not appear that Washington made any reply 1792.  
to this very passionate and acrimonious letter; but Jefferson has left us in his *Ana* the record of a conversation in respect to it which took place at Mount Vernon a few weeks afterward, where he had called on his way to Philadelphia. In expressing his regret at Jefferson's resolution, in which he seemed so fixed, to retire from office, Washington observed that his own mind was not yet made up whether to serve another term or not. This Jefferson again urged him to do. He was the only person in the United States who possessed the confidence of the whole; there was no other who would be thought any thing more than the head of a party. Washington also declared his concern at the length to which matters had gone between Hamilton and Jefferson. He knew there was a difference in their political sentiments, but he was not before aware that it had gone the length of personal hostility, and he wished he could act as mediator. He thought it important to preserve the check of Jefferson's opinions in the cabinet, in order to keep things in their proper channel, and so to prevent any going too far. As to the idea, however, of transforming the government into a monarchy, he did not believe there were ten men in the United States, whose opinions were worthy of attention, who entertained such a thought. Jefferson contended, on the other hand, that there was a numerous sect who had monarchy in contemplation, and that the Secretary of the Treasury was one of them. He had heard him say that the Constitution was a shilly-shally thing, of mere milk and water, which could not last, and was only good as a step to something better. To Jefferson's complaints of corruption in the Legisla- Oct. 1



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ture, and a squadron there devoted to the nod of the treasury, Washington replied that, to a certain degree, 1792. an interested spirit in the Legislature was what could not be avoided in any government, unless particular descriptions of men, such as holders of the funds, were to be excluded from all office. With respect to the funding system, he remarked that, in the great diversity of opinions about it, some thinking it very bad and others very good, experience only could decide. Desperate affairs, and lost credit suddenly re-established, seemed to him to be an argument in its favor.

Oct 18. This same idea of a reconciliation was strongly urged in a letter to Jefferson shortly after Washington's return to Philadelphia. This was in reply to a note of Jefferson's, inclosing extracts from letters to several of his friends, written while the Federal Constitution was under consideration, and tending to show that his opposition to it had not been so very decided. Washington declared, in reply, that no such evidence was necessary to convince him of Jefferson's attachment to the Constitution and disposition to promote the general welfare of the country. He believed the views of both Jefferson and Hamilton to be "pure and well meant." "Why, then, when some of the best citizens in the United States, men of discernment, uniform and tried patriots, who have no sinister views to promote, but are chaste in their ways of thinking and acting, are to be found some on one side and some on the other of the questions which have caused these agitations, should either of you be so tenacious of your opinions as to make no allowances for those of the other? I could, and indeed was about to add more on this interesting subject, but will forbear, at least for the present, after expressing a wish that the cup which has been presented to us may not be snatched from our lips

by a discordance of action, when, I am persuaded, there is no discordance in views. I have a great, a sincere esteem and regard for you both, and ardently wish that some line may be marked out by which both of you could walk."

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While Washington was employed in this difficult, and, indeed, hopeless task of attempting to restore harmony to his cabinet, resistance to the excise on domestic spirits, notwithstanding the general submission to it, had reached such a pitch in two or three districts as to call for direct executive interference.

One chief seat of this opposition was in North Carolina, especially in the central counties, the region of the old Regulators and of the Tory strength during the Revolution. But a resistance still more formidable was made in the four counties of Pennsylvania west of the Alleghenies. These counties had been principally settled by Scotch-Irish Presbyterians, a race of men of great energy and decision, but never distinguished for quiet or subordination, and whose hasty and ferocious temper had already more than once stained the history of Pennsylvania with blood. The dispute, long kept up between Virginia and Pennsylvania, as to the jurisdiction of this region, had tended to increase the lawlessness of the inhabitants, and the same resistance which they had formerly opposed to the excise law of Pennsylvania they now carried to still greater extremities against that of the United States.

So far from being confined to a few obscure or directly interested persons, as had been the case elsewhere, this opposition was encouraged and inflamed by many of the most influential and intelligent of the inhabitants. Committees had been organized to oppose the enforcement of the law on the same plan with those employed against British authority at the commencement of the Revolution, and tarrings and featherings, and other violent out-

CHAPTER V. rages, had been resorted to for the punishment and terror  
of the federal officers and others who lent their services  
1790. and assistance toward the enforcement of the law.

Washington county, in the extreme southwestern corner of the state, between the Monongahela and the Virginia line, was the most violent of all. Such was the report made by Clymer, who had been appointed supervisor for Pennsylvania, and who had visited the western counties, that he might personally inspect the condition of things. Bradford, a native of Maryland, who had formerly advocated, with much warmth, the erection of the western counties into a separate state, and who was now the prosecuting officer for Washington county, was one leader; another was Marshall, an early settler, originally from the north of Ireland, a man of large property, and also holding office as registrar of the county. Fayette county, on the opposite side of the Monongahela, in which Smilie and Gallatin were the most influential persons, was hardly more moderate, though fewer acts of violence had been perpetrated there. Under the influence of the canny and cautious Findley, whom we have met with already as a member of Congress, and who became ultimately a conspicuous leader of the opposition, Westmoreland county, at the western foot of the mountains, had been kept out of combinations and committees; but the officers had no better treatment there than in Washington and Fayette. Allegany county, in which Pittsburg was situated, had been less violent in opposition, yet there were among the inhabitants none who had courage enough to advocate the law. According to Clymer, the influence of Smilie and Findley, who were great anti-Federalists, had destroyed all regard for the government of the United States, for which purpose they used the excise as an instrument; indeed, Clymer designated

Findley as the father of all the disturbances in the western country. Individuals there were who thought rightly, but all the men of distinction were either sordid shopkeepers, crafty lawyers, or candidates for office, not inclined to make personal sacrifices to truth and honor; nor, in Clymer's opinion, were the duties of citizenship likely to be well understood where the moral sense was so generally depraved by the intemperate use of the favorite drink.

The immediate inducement to this visit of Clymer's was a sort of convention of the four counties, held at Pittsburgh, of which Gallatin had been secretary, and at which Smilie and several other influential persons had been present; a repetition, in fact, of a similar convention held there the year before. A remarkable series of resolutions, drawn up by a committee of which Gallatin, Bradford, and Marshall were members, had been adopted at this meeting. After denouncing the excise as unjust, dangerous to liberty, oppressive to the poor, and particularly oppressive to the Western country, where grain could only be disposed of by distilling it, these resolutions declared a fixed intention to persist in remonstrances and in every other "legal measure" that might obstruct the collection of the tax. They expressed, also, a determination to have no dealings nor intercourse with any person who might take office to execute the law, but to treat all such persons with contempt, and to withdraw from them every comfort and assistance. A committee of correspondence was appointed, and the adoption of a like course was recommended to the people at large.

By way of reply to these high-handed proceedings, the president had issued a proclamation, exhorting all persons to desist from unlawful combinations, and charging all magistrates and courts to use their utmost endeavors to

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Sept. 24.

CHAPTER V. bring infractors of the law to justice. Washington, at this moment, was absent at Mount Vernon, on his second visit; and the proclamation, drafted by Hamilton, Knox, and Randolph, who remained at Philadelphia in the management of affairs, was sent thither for his signature, and then to Jefferson, at Monticello, to be countersigned by him, a formality which Washington particularly insisted on. Orders were likewise given to Randolph, at Hamilton's suggestion, to commence prosecutions against those concerned in the Pittsburg meeting; but that proceeding had to be abandoned, as the attorney general could find no law on which it could be based.

In North Carolina the proclamation of the president seems to have answered a good purpose. Little further resistance to the excise occurred in that quarter. But in Western Pennsylvania the opposition still continued so general and determined as effectually to prevent the collection of the tax.

To the conduct of these Western demagogues, in stirring up a violent opposition to the law of the land, the cotemporaneous behavior of Chief Justice Jay exhibited a striking and honorable contrast. Jay had been selected as the federal candidate for governor of New York in opposition to Clinton, and, after a very warm and excited canvass, his election had been carried by a majority of about four hundred votes. The duty of canvassing the returns and declaring the result belonged to a committee of the Legislature, of whom a majority were friends of Governor Clinton. That majority took advantage of some very nice and doubtful technical objections as to the persons by whom the returns had been forwarded to reject the votes of three counties, after which, against the protest of four of their number, they pronounced Clinton to be elected by a majority of about

June.

a hundred votes. Rufus King gave a written legal CHAPTER  
V. opinion that as the alleged informalities depended upon a very strict construction of the statute, and operated to 1792. deprive bona fide electors of their right of suffrage, no attention ought to be paid to them—a view of the matter now universally adopted in similar cases. But the decision made by the canvassers was supported by the counter-opinion of Aaron Burr, who from this time assumed a rank in the anti-Federal party of New York second only, and not long even second, to that of Clinton himself. The Federalists were violently excited, and even talked of refusing to recognize Clinton as governor. Instead of inflaming their passions and stimulating them to a course which could only end in confusion and disorder, Jay did his utmost to calm the excitement, and to induce his friends patiently to submit to a decision which, however it might seem dictated by a selfish disregard of popular rights and a determination to secure a party triumph at all hazards, had yet been made by a competent authority, and was therefore entitled to respect and obedience. The best way, so Jay told his friends, was to wait till the next election, leaving it to the ballot-box to set the matter right.

During the late session of Congress, Philadelphia had been visited by deputations from the Six Nations, obtained through the influence of Kirkland the missionary, and from the Cherokees, sent on by Governor Blount to confirm the recent treaty. These deputations had been dismissed, well satisfied with their reception. The annual payment to the Cherokees had been raised to \$1500. A similar annual payment had been promised to the Six Nations, to be expended in clothing, in domestic animals and implements of husbandry, and in procuring blacksmiths and other artificers to reside in the Indian vil-

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1792. lages. Hendricks, chief of the Stockbridge tribe, now associated with the Six Nations, promised, in return, to make a new attempt to pacify the hostile nations of the West. Still, however, there was much occasion for anxiety in the existing state of Indian affairs. According to Seagrove, late commissioner to Florida to negotiate for the return of runaway slaves, and recently appointed agent for the Creeks, the Spaniards were determined to prevent the carrying out of the treaty of New York with that confederacy. M'Gillivray was said to be growing unfriendly, and to be disposed to accept a Spanish agency. Nor was this the only difficulty. The frontier inhabitants of Georgia, greatly dissatisfied with the stipulations of the treaty as to the Indian boundary line, were strongly disposed to provoke a war. "To such lengths have matters gone," wrote Seagrove, "that they now consider the troops and servants of the United States who are placed among them nearly as great enemies as they do the Indians, and for no other reason than that they recommend moderation, and a compliance with the laws of the land." In reference to this state of things, a letter was addressed by the War Department to Telfair, the governor of Georgia; but the state authorities sympathized strongly with the popular sentiment.

The settlements about Nashville had been repeatedly attacked in the course of the two last years, as was supposed, by marauding parties from the Upper Creeks. More than a hundred persons within that period had been killed or taken prisoners. Other like depredations, though not so numerous, had occurred in the eastern district of Tennessee, and on the western frontier of South Carolina and Georgia. The five Lower Cherokee towns, whose intercourse was frequent with the Shawanese, had been

in a state of agitation since St. Clair's defeat, and were only restrained by great exertions on the part of the friendly chiefs from open hostilities. According to Blount, 1792. horse-stealing was one principal source of trouble with the Southern tribes. Under the management of certain refugee whites who resided among them, this had been reduced to a complete system. The Indians were instigated to steal the horses, which were conveyed to a distance, and in a short time to the sea-board for sale. Upon this subject the backwoodsmen were very sore, and it was impossible to restrain them from taking satisfaction, as they called it, by now and then killing an Indian. This led to murders on the other side, not to mention occasional encounters in cases of fresh pursuit.

To raise the army voted for the Northwestern campaign, to which was given the name of the Legion of the United States, was a work of time and difficulty. The small rate of wages allowed to the soldiers held out no great encouragement to engage in so hard and dangerous a service. Among those enlisted were many improper persons, mere boys or vagabonds, one consequence of which was that desertions were very numerous. The demoralization of the recruits was completed by the bands of whisky-traders by whom they were surrounded. The support of these troops, as they were sent forward to the scene of operations, grew more and more expensive, as all supplies had to be transported a great distance.

While preparations were going on, with as much energy as circumstances would permit, for subduing the Northwestern Indians by force, attempts were also made to open a negotiation which might lead to pacific arrangements. Major Trueman, who carried a conciliatory speech from the president, and Colonel Hardin, who volunteered on this dangerous service, both perished by

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CHAPTER the hands of the Indians while employed on these mis-  
V sions of peace.

1792. Attempts were also made to procure auxiliaries from

- among the Creeks and other Southern tribes; and for this and other objects, General Pickens and Governor

Aug. Blount, commissioners for that purpose, held a treaty with the Chickasaws and Choctaws, among whom the Spaniards of Louisiana were intriguing, with the design to engage them in the Spanish interest. With the help

Sept. of the missionary Heckewelder, General Putnam succeeded in arranging a treaty of peace with some bands of the Delawares, Wyandots, and Miamis, dwelling on the Miami and Sandusky rivers, the nearest of the Northwestern Indians to the Ohio settlements. Not long after, a grand council, at which were present delegations from almost all the Northern tribes, was held at Au Glaize, for the purpose of considering the relations in which they stood to the American government; but no white man was allowed to be present except Simon Girty, whom the Indians considered as one of themselves. The Six Nations, whom the other tribes addressed as "Eldest brother," were represented at this council by Corn-planter, Red Jacket, and upward of forty principal chiefs, who seem to have attended, under the leadership of Hendricks, at the express desire of the United States. They counseled peace and a treaty; and, though they were warmly opposed by the Shawanese, who took the lead for war, the belligerent Indians finally agreed to suspend hostilities during the coming winter, and, "at the time when the leaves were fully on," to meet the United States in council at the Rapids of the Miami. But they demanded, as a condition of this armistice, that the American troops should retire south of the Ohio, which river they still persisted in claiming as the true Indian boundary—

a claim in which even the friendly chiefs of the Six Nations were strongly inclined to concur. "We now desire you, brother," said the chiefs of the Six Nations, in giving to the president an account of their mission, "to send forward agents who are men of sincerity, not proud land-jobbers, but men who love and desire peace. Also, we desire they may be accompanied by some Quakers to attend the council." Appointments were subsequently made in conformity to this request; but as the garrisons were still maintained north of the Ohio, the proposed armistice did not prevent some skirmishing in the course of the winter.

By the close of the season, the troops in service, old and new, amounted to about thirty-six hundred men. The head-quarters were at Pittsburg, where Wayne commanded in person, and here the main body remained encamped during the winter. A small detachment was stationed in Georgia, to keep the peace on the Creek frontier, and others at Marietta and Fort Washington, on the Ohio, with garrisons at Vincennes, Fort Jefferson, and other interior posts. But Washington discouraged the formation of new posts, except such as were necessary to constitute lines of communication.

Washington's personal reasons for desiring a release from the burdens of office had been lately increased by the mortal illness of a nephew on whom he had hitherto relied for the chief management of his affairs at Mount Vernon. It was, however, sufficiently evident that the public wish demanded his continuance, and there was reason to believe even the public safety also. Under these circumstances he laid aside his intention of withdrawing; and the struggle between the two parties now beginning to be distinctly formed in the nation—opposition to the funding system being substituted for opposi-

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CHAPTER V. tion to the Constitution—was confined to the question of the vice-presidency and the majority in Congress under the new apportionment. The opposition concentrated their votes on George Clinton as vice-president. The Federalists supported John Adams, not because they approved all his political theories, but because they believed him an honest and capable friend of the Constitution. Washington again received the unanimous vote of the electors, the number being increased under the new apportionment, and by the admission of new states, to a hundred and thirty. Of the votes for the second candidate, Adams received seventy-seven and Clinton fifty. All the votes of the New England States, including Rhode Island and Vermont, which had not voted at the former election, and the entire vote of Connecticut, which had then been divided, were given to Adams. Instead of one vote in New Jersey and eight out of ten in Pennsylvania, given to him at the first election, he now obtained the entire support of those two states, except one vote in Pennsylvania given to Clinton. He received, also for the first time, the entire vote of Delaware and Maryland, with six out of the seven votes of South Carolina; but the five Virginia votes given to him at the first election were now withheld. Clinton received the entire vote of New York, Virginia, North Carolina, and Georgia. The Kentucky electors voted for Jefferson as their second candidate. One of the South Carolina votes was given to Burr.

Nov. 5. The second Congress, meanwhile, had reassembled for its second and concluding session. In his opening speech the president dwelt at length on the state of Indian relations, his unsuccessful efforts to re-establish peace in the Northwest, and the necessity of an efficient Indian Department to regulate affairs on the frontiers in a spirit

of justice and humanity, as the only means of security CHAPTER V. against perpetual Indian wars. The measures taken in consequence of opposition to the excise were recited, and 1792. the president's firm intention was expressed to enforce the collection of the tax. The prosperous condition of the revenue formed a topic of congratulation, and the adoption was recommended of a systematic and effectual arrangement for the regular redemption of the public debt as fast as the terms of the Funding Act would allow. An account was given of the progress of the mint, which had already commenced operations by the coinage of half dimes. In consequence of projects believed to be on foot for establishing settlements on the Mississippi within the territory claimed by Spain, under color of the Georgia Yazoo grants, attention was called to the means of preventing aggressions by citizens of the United States on the territory of foreign nations.

The report of the committee on St. Clair's defeat, made just at the conclusion of the late session, in exculpating that commander, had thrown a good deal of blame on the quartermaster general, the contractor for supplies, and, by implication also, on the Departments of War and the Treasury, the report implying that the army had not been properly provided for, or money duly furnished to meet its wants. This report had excited a good deal of feeling on the part of the officers implicated, who desired an opportunity to vindicate themselves. The report being under consideration in Committee of the Whole, Dayton Nov. 13 moved that the Secretaries of War and the Treasury be directed to attend the House, and to give such information as might be required. This motion roused at once into action the jealousy of executive influence felt by the opposition. It was vehemently resisted as unconstitutional, a dangerous precedent, and threatening to subject

CHAPTER the House to the influence and control of the secretaries.  
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In this view of the matter, Williamson, Tucker, Madison, 1792. Giles, Page, Venable, White, Clark of New Jersey, and even Murray, Fitzsimmons, and Livermore, concurred. The motion was supported by the mover, by Ames, Lawrence, Boudinot, Gerry, and Smith of South Carolina. Gerry ridiculed the alarm which some members seemed to evince on this subject. The secretaries would attend merely to give such information as might be required, not as members or as ministers to influence the determinations of the House. The motion, however, failed to pass, and finally, on Madison's suggestion, the matter was sent back to the original committee for further investigation. Before this committee the secretaries and other parties interested were allowed to attend for the purpose of giving explanations—a precedent ever since followed in similar cases. Toward the end of the session a supplemental report was made, modifying and explaining away many of the censures contained in the first report.

Nov. 19. Another not less vehement debate presently arose on a motion by Fitzsimmons to refer that part of the president's message relating to the redemption of the public debt to the Secretary of the Treasury, to report a plan for that purpose. This reference, warmly opposed by Madison, Mercer, Findley, Page, and Baldwin, was supported by Fitzsimmons, Williamson, Hillhouse, Murray, Smith of South Carolina, Sedgwick, Ames, Lawrence, Livermore, and Gerry, as coming within the express provisions of the act establishing the Treasury Department,

Nov. 21. and was finally carried by thirty-two votes to twenty-five. Another resolution was passed at the same time, directing the secretary to report a plan for paying up at once the two millions advanced by the Bank of the United States as an offset to the two millions subscribed

to the stock of that institution, and which, by the terms of the loan, was reimbursable in annual installments of \$200,000, with interest at six per cent. CHAPTER V. 1792.

The idea of paying off this debt to the bank had originated with Hamilton, who proposed to appropriate to that purpose a part of the proceeds of the loans recently negotiated in Holland under the authority formerly given to pay off the over-due installments of the French debt. In consequence of the dethronement of Louis XVI., news of which had just arrived in America, and the dissolution of the Legislative Assembly, leaving no authority in France at that moment competent to give a discharge, directions had been sent to Gouverneur Morris to suspend payments on account of the French debt until further orders. Not to lose the interest on this money, Hamilton proposed to appropriate it to pay off the debt to the bank, authority being first obtained to negotiate a new loan of two millions out of which to meet the payments on the French debt whenever they should be resumed. Not only would this arrangement prevent any temporary loss of interest, but, should the new loan be negotiated on terms as favorable as those recently obtained, an annual saving would accrue to the United States of about \$35,000, the difference between six per cent., the rate of interest paid to the bank, and the rate at which the latest Dutch loans had been obtained.

In the interval between these references to the Secretary of the Treasury and his report thereon, some warm speeches were made upon quite a different topic. Since the famous debate upon slavery at the second session of the first Congress, about two years before, that question, having been found so inflammable, had hardly been touched upon in the House, the administration party and the opposition being both alike afraid of it. The

CHAPTER V. Abolition Society of Pennsylvania had indeed presented, at the last session, a memorial calling upon Congress to exercise, for the suppression of the slave trade, those powers which, by the report of the Committee of the Whole, entered on the journals of the House, Congress had been declared to possess. Re-enforced by others from the abolition societies of Rhode Island, Connecticut, New York, Virginia, and from several local societies in Maryland, that memorial had been referred to a special committee. As that committee had made no report, memorials had been presented at the present session from the abolition societies of New Hampshire and Massachusetts, recalling the attention of Congress to the subject; but these, as yet, had been suffered to lie upon the table without reference. Afterward a separate petition had been presented from Warner Mifflin, a philanthropical Quaker of Delaware, on the general subject of negro slavery, its injustice, and the necessity of its abolition. At the time of its presentation, this document had been read and laid upon the table without comment. Two Nov 26. days after, Steele, of North Carolina, called attention to it by observing "that, after what had passed at New York, he had hoped the House would have heard no more of that subject. To his surprise, he found the business started anew by a fanatic, who, not content with keeping his own conscience, undertook to be the keeper of the consciences of other men, and, in a manner not very decent, had obtruded his opinion on the House." After some complaints that such a petition should have been presented, Steele moved that it be returned to the petitioner by the clerk, and that the entry of it be erased from the journal. The petition, it chanced, had been presented by Ames, to whom Mifflin had applied for that purpose, as the Delaware member happened to be absent.

Ames hastened to renew the declaration of his opinion, CHAPTER  
V. expressed in the debate two years before, that Congress could take no steps as to the matter to which the memorial related. Having been requested to present it, he had done so on the general principle that every citizen had a right to petition the Legislature, and to apply to any member as the vehicle to convey his petition to the House. 1792.

In seconding Steele's motion, Smith of South Carolina "admitted, to its full extent, the right of every citizen to petition for redress of grievances, and the duty of the House to consider such petitions. But the paper in question was not of that description. It was a mere rant and rhapsody of a meddling fanatic, interlarded with texts of Scripture, and without any specific prayer. . The citizens of the Southern States, finding that a paper of this sort had been received by the House, and formally entered on their journals, might justly be alarmed, and led to believe that doctrines were countenanced destructive of their interests. The gentleman who presented it, and who, he observed with regret, had not on this occasion displayed his usual regard for the Southern States, had stated its contents to relate only to the slave trade. Had he stated its real objects, namely, to create disunion among the states, and to excite the most horrible insurrections, the House would undoubtedly have refused its reception. After the proceedings at New York, his constituents had a right to expect that the subject would never be stirred again. These applications were not calculated to meliorate the condition of those who were their objects, and who were at present happy and contented. On the contrary, by alienating their affections from their masters, and exciting a spirit of restlessness, they tended to make greater severities necessary. He



CHAPTER V. therefore earnestly called upon the House, by agreeing

1792. to the present motion, to convince this troublesome enthusiast, and others who might be disposed to communicate their ravings and wild effusions, that they would meet the treatment they justly deserved. As the present application was disrespectful to the House, insulting to the Southern members, and a libel on their constituents, it ought no longer to remain on the table, but should be returned to its author with marked disapprobation." That part of the motion relating to the return of the petition was agreed to; the part respecting the erasure of the journal was withdrawn by the mover.

Dec. 3. The report of the Secretary of the Treasury on the payment of the public debt suggested a very ingenious scheme. It appeared by this report that up to 1801, when payments on the deferred debt might first commence, the amount of the six per cent. debt annually redeemable by the terms of the loans rose by annual increase from \$550,000 to \$1,126,000. To meet these successive installments, besides appropriating to that purpose the surplus bank dividends over and above the interest payable on the loan from the bank, the secretary proposed to borrow successive sums of money on the pledge of taxes to be annually imposed, sufficient, with the other funds above mentioned, not only to secure the interest on the sums thus borrowed, but to pay off the principal also, within periods of from five years to one year; these taxes to be made permanent, and, after paying off the temporary loans for which in the first place they were pledged, to be applied to the discharge of other installments of the public debt.

To carry this scheme into effect, it would be necessary to lay in the first year new taxes to the amount of \$43,000, and in each of the succeeding six years, other

taxes something above \$100,000, amounting in the whole to \$691,530. The application of these taxes and CHAPTER  
V. other funds in the way proposed would pay off by the 1792. first of January, 1802, \$6,570,223 of the public debt, the interest on which, together with the above-mentioned amount of taxes and the surplus bank dividends, would constitute an annual amount of \$1,210,747, sufficient to pay off the whole remainder of the six per cent. stock as fast as, according to the terms of the Funding Act, it became redeemable.

All the surplus of the existing revenue—which, after the termination of the Indian war, might be expected to be very considerable—would thus remain as a fund to meet any emergencies which the government might encounter; and any part of it not needed for current expenses might be applied, with the proceeds of the present sinking fund, as a further aid toward the extinction of the debt.

This same report suggested the immediate payment of the loan from the bank in the way already pointed out.

Hamilton's scheme for paying off the public debt proved a very bitter pill to the opposition, not only as it went to give the lie to all the clamor they had raised, that he regarded the public debt as a public blessing, and meant to saddle it forever on the country, but also because the tax he proposed for the ensuing year, toward the carrying out of his scheme, was a tax on pleasure-horses or pleasure-carriages, as Congress might elect, either of which taxes would give to those Southern gentlemen who had been so anxious to extinguish the debt an opportunity to contribute their fair share toward it.

The proposition for paying up the debt to the bank, even though it promised an annual saving to the country of a considerable sum, was strongly suspected by the op-

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1792. position to be no better than a piece of favoritism toward that institution on the part of the Secretary of the Treasury at a time when the bank was pressed for money. News, also, had lately arrived that the French Convention had met, and the meeting of that body was insisted upon as a sufficient reorganization of the French government to justify the resumption of the payments to France. In fact, the opposition had resolved to prevent, if possible, any action at all in any matter of consequence at the present session, in the confident hope of securing a majority in the new Congress sufficient to give them the control of affairs.

Dec 24. The gradual redemption of the six per cents. and the payment of the loan to the bank were referred to two separate committees, and the committee on paying the bank presently reported a bill based on the secretary's plan. When this bill came up in Committee of the Whole, Giles, in accordance with the settled tactics of the opposition, asked for delay, suggesting also the idea of paying the debt by selling the bank stock. Fitzsimmons replied that such an amount of stock thrown suddenly on the market would sink the shares below par. Clark was opposed to borrowing from foreigners; he would rather pay seven or eight per cent. to citizens than five to them. The bill having been reported to the House, Steele moved to strike out the enacting clause, being resolved, as he said, to test the question if the country was to go on in this pernicious practice of loans. It was insisted by others that no new loan was necessary, as there were already means on hand to pay the bank. But to this Fitzsimmons and Gerry replied that the money in the treasury was already pledged to a specific purpose, and could not be applied to any other till means had first been provided for replacing it. Williamson thought it

would be unjust to the private stockholders for the gov- CHAPTER  
ernment to depreciate the value of the bank stock by V.  
throwing all theirs into the market; to which Madison 1792  
replied that this was the first time he had ever heard it  
intimated that the property of the United States in the  
bank was unalienable. "With respect to the money  
appropriated, and now lying useless, he was of opinion  
that it ought to be immediately applied to the original  
purpose, to pay our debt to France. Now was the time  
to discharge our obligations to that country; and so far  
from considering the present posture of affairs in France  
as a reason for withholding payment, he would rather  
wish that the sum was wafted to them on the wings  
of the wind." The news just received of the repulse  
of the Duke of Brunswick in his march upon Paris  
seems to have elevated Madison a little above his usual  
placid level. Venable, Giles, and others doubted if the  
United States could save any thing by borrowing at five  
per cent. to pay a debt at six per cent., "taking the  
charges and douceurs into account;" but Fitzsimmons  
replied that the five per cent. included every thing.  
Steele's motion having been lost by a large majority,  
Madison moved to reduce the payment to \$200,000,  
the sum actually due by the terms of the charter. This  
motion was only lost by the casting vote of the speaker; Dec 26  
and, as the strength of the opposition was but too appar-  
ent, the bill was no longer pressed. It passed later in  
the session in the form proposed by Madison.

In the midst of the rejoicings of the opposition at this  
triumph over Hamilton, Steele made a violent onslaught Dec 28  
upon the War Department. In an elaborate speech in  
support of a motion for reducing the army, he dwelt with  
great emphasis on the increase of military outlays, not  
without dark insinuations that the Indian war was pur-

CHAPTER V.            posedly protracted for the very purpose of multiplying expenses. He thought militia far preferable to regulars for

1792. carrying on an Indian war; and he proposed to appropriate the great savings which he anticipated from the change to the payment of the public debt. Findley, whose position as the representative of a frontier district outweighed on this occasion his party predilections, thought the great blame rested with Congress itself for its tardy and insufficient appropriations. Madison was not quite prepared to go the whole length proposed by Steele; he thought the object in view might be accomplished by stopping the enlistments and filling up the ranks with volunteers. He

1793. proposed an amendment to that effect, which, however,  
Jan 8. was lost, as was also the original motion by a still more decided vote.

Quite a portion of the session was consumed in debating a bill which passed the House, though it was finally lost in the Senate, for funding, on the same terms with the other state debts hitherto assumed, the balances which might be found due to any of the states on the final settlement, now in rapid progress, of the state and Continental accounts. This bill was violently opposed by the enemies of the former assumption. The only part of the debate of any permanent interest was a portion of it bearing upon the charge, in which we have seen Jefferson persisting so positively and pertinaciously, of pecuniary corruption and private interest on the part of those members of Congress by whose votes the funding system had been carried.

Jan. 21. John F. Mercer, a new member from Maryland, in moving an amendment to the bill, darkly referred to the public feeling excited by alleged dishonest proceedings to which the former assumption had given rise, and from which, as he seemed to insinuate, even members

of the House had not been altogether free. Fitzsimmons CHAPTER  
could not undertake to say what the public feeling actu- V.  
ally was as to that matter; but if unfavorable impres- 1793.  
sions had not been made, it certainly was not for want  
of attempts to make them, and that, too, on the part of  
individuals within those walls. If any member of the  
House knew of any facts of the kind alluded to, let him  
boldly come forward and charge openly the guilty. The  
same challenge was repeated by Sedgwick. "The ears  
of the House had been more than once assailed by insin-  
uations of the base conduct of individual members in  
speculating in their own measures. If there be so base  
and infamous a character within these walls—if there is  
one member of this House who has been guilty of plun-  
dering his constituents in the manner represented, let his  
name be mentioned, let the man be pointed out! From  
the part he had taken in this business from the begin-  
ning, and from suggestions which had been circulated, he  
had some reason to suppose that it might be intended to  
implicate him, and he therefore felt called upon to notice  
these base insinuations, attempts to fix a stigma on men  
whose reputation was dearer to them than life."

Thus met, Mercer hastened to draw back, and to dis-  
claim any intention to implicate any body in particular  
His remarks had been directed to human nature at large  
Temptation was powerful, and, for his part, he did not  
wish his honor and integrity to be put to the test. He  
wound up with quoting from Shakspeare, "Who steals  
my purse steals trash," &c., very appropriate indeed in  
his mouth!

White believed the aspersions on members of Congress  
to be totally unfounded. He did not doubt that specu-  
lation had been carried to a very great extent during the  
pendency of the funding system. That could not be

CHAPTER avoided. Men would venture according to their opinion  
V. of the final result. When the proposal to discriminate

1793. between original holders and purchasers was brought forward, the price fell. When that proposition was rejected, the price rose again. It was probably the same with the state debts in the various stages of the assumption. But surely no suspicion of improper conduct could fall on those who had voted uniformly either for or against the measure. The just objects of suspicion were the members who at first had opposed the assumption, but had voted for it as finally modified. Those members were five in number, and easily known. Three still retained their seats in the House; the other two were from the same state with the mover of the present amendment. Of the three still in the House, White was himself one, and no man, he was confident, would apply the charge of speculation to him, or, indeed, to either of the three, in the belief that there was a shadow of truth in it. Several other members took the same occasion to challenge the application of any charge to them. But not the least disposition was evinced by any member of the opposition to bring the matter to any practical test.

In the case, however, of the Secretary of the Treasury, more sanguine hopes seem to have been entertained. The man whom the opposition had so often accused of corruption, they took it for granted must be corrupt. With the view to obtain a basis for their charges, immediately after the vote on the bill for paying the debt to the bank, Giles had submitted a resolution calling upon the president for particular information as to the several sums of money borrowed by his authority; the terms of the loans; the application of the money; and other particulars. That call having been answered, another was  
3 now made, requesting additional and more particular in-

formation; extending also to the balances of the public money on deposit with the bank and its branches; the accounts of the sinking fund; and the condition of the finances generally. In proposing this call, and as a reason for it, Giles delivered an elaborate speech, based upon the returns already made, and other treasury statements of the session, in which he broadly charged the secretary with failing to account for upward of a million and a half of the public money; intimating, also, foul play and mismanagement in the negotiation of the loans, and in drawing a part of the money unnecessarily into the United States; and that half a million of dollars had been unnecessarily borrowed of the United States Bank at the very time that a larger amount was lying idle on deposit in that institution. Thus, at last, were made to assume a tangible and positive form the various charges against Hamilton of corruption and speculation, in which the opposition, in private and in public, had so freely indulged.

As considerable time must necessarily elapse before replies could be prepared to all the minutiae of these inquiries, Hamilton hastened to meet the most material part of the charges thus rashly and recklessly hazarded against his official integrity. "The resolutions to which I am to answer," so his report ran, "were not moved without a pretty copious display of the reasons on which they were founded. Those reasons are before the public through the channel of the press. They are of a nature to excite attention, to beget alarm, to inspire doubts. Deductions of a very extraordinary complexion may, without forcing the sense, be drawn from them. I feel it incumbent to meet the suggestions thus thrown out with decision and explicitness. And while I hope I shall let fall nothing inconsistent with that cordial and

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1793. unqualified respect which I feel for the House of Representatives—while I acquiesce in the sufficiency of the motives that induced, on their part, the giving a prompt and free course to the investigation proposed, I can not but resolve to treat the subject with a freedom which is due to truth and to the consciousness of a pure zeal for the public interest.”

The report then proceeded to show that the alleged defalcations were made up by carelessly or maliciously reckoning as so much money which ought to be in the treasury, a considerable amount of bonds given for duties, but not yet due; also a large amount of the proceeds of bills on the bankers abroad, sold but not yet paid for; and, what was still more remarkable, by omitting to take into account as money in the treasury another large sum actually reported as being on deposit in the Bank of the United States. After pointing out these errors, and giving an explanation also of certain alleged but imaginary discrepancies between some of his statements and certain memoranda in the treasurer's books, the report concluded with this significant question: “Is it not truly matter of regret that so formal an explanation on such a point should have been made requisite? Could no personal inquiry of either of the officers concerned have superseded the necessity of publicly calling the attention of the House of Representatives to an appearance, in truth, so little significant? Was it seriously supposed that there could be any difficulty in explaining that appearance, when the very disclosure of it proceeded from the voluntary act of the head of this department?”

This complete and unanswerable vindication against the main point of the charges might have abashed an accuser less brazen-faced than Giles, chiefly distin-

guished, through a long subsequent political career, for CHAPTER V. pertinacious virulence and total want of candor. But \_\_\_\_\_ Giles did not stand alone in this business. He had been 1793. judiciously selected as spokesman; but the attack upon Hamilton was evidently a concerted matter among the leaders of the opposition. The main assault had disgracefully failed; but it was still hoped to pick, at least, some flaws in the secretary's management of financial affairs; and in the minute history of the transactions of that department, drawn out by repeated inquiries, to find something on which to rest, at least, the charges of want of caution, or want of judgment, or of acts done without sufficient authority.

By acts of the 4th and 12th of August, 1790, as has been mentioned in a previous chapter, the president had been authorized to negotiate two loans, one of twelve millions of dollars, for the discharge of the foreign, especially of the French, debt due and to become due; the other, of two millions, for the purposes of the sinking fund. The general execution of the powers thus given to the president he had committed, under certain restrictions, by a written authority, to the Secretary of the Treasury. Prior to the passage of these acts, the American bankers in Holland, perceiving that money would be needed to meet the foreign demands against the United States, had availed themselves of a favorable opportunity to open on their own responsibility a new loan for three millions of florins, trusting to the government to ratify and confirm their proceedings. This loan it had been thought best to adopt as a part of those authorized by Congress, and Hamilton had written to the bankers to make a partition of it between the two loans, that for the foreign debt, and that for the sinking fund, which he proposed at first to keep separate and distinct. But to

CHAPTER V. this partition of the loan already made the bankers objected, as likely to raise suspicions among the subscribers, to whom it might not be so easy to explain the proceeding, and Hamilton, on reflection, saw no objection to a general borrowing, on the joint authority of the two acts, to the extent of fourteen millions of dollars, without any special partition of the money thus borrowed between the two loans. In fact, the opening at the same time of two distinct and separate loans might give occasion to many inconveniences. In accordance with this idea, the sum of 19,550,000 florins, about \$7,820,000, had been borrowed in Holland in six separate installments, at rates of interest, charges included, beginning at a fraction above five and a half per cent., and ending at a fraction below four and a half per cent. Of this amount upward of four millions of dollars had been appropriated to pay the installments of the French debt already due. The Spanish debt had also been provided for out of it; the debt due to the foreign officers who had served in the Continental armies; and the interest and installments of the Dutch loans. Besides these payments made abroad, an amount equal to \$2,304,769 had been drawn into the treasury by the sale of bills of exchange on the foreign bankers, in whose hands there still remained, after deducting the charges on the loans, a small balance. All these loans or installments of loans, except the first, had been made by Short as sole commissioner. The payments to France had been under the superintendence of Morris; but in both cases the actual handling of the money had rested exclusively with the bankers of the United States at Amsterdam and Paris. Of the moneys drawn into the United States, near half a million had been expended in advances for St. Domingo on account of the French debt. The early purchases

of stocks made by the Commissioners of the Sinking Fund had also been paid for by the same means. But CHAPTER  
V. those purchases having been checked by the rapid rise in 1793. the value of stocks, the whole amount purchased had fallen short of the income realized from sources other than the two million loan, which thus remained, in fact, untouched, leaving in the treasury, including the proceeds of the bills sold but not yet paid for, near two millions of dollars, which Hamilton had proposed to appropriate toward paying off the debt to the bank. The subscription to the bank and the loan of the two millions in return had both been made without the actual use of any money, the subscription having been paid by bills on the foreign bankers, and the loan having been made by the return of the same bills.

The having drawn two millions of money into the United States, nominally for the benefit of the sinking fund, but which proved ultimately not needed for that purpose, was what had chiefly excited the suspicions of the opposition; as though Hamilton had done it with the very intention of diverting this money to the use of the bank, by paying up the bank debt in full. And this idea they adhered to very obstinately, at least the more unreasonable among them, notwithstanding the abundant evidence furnished by Hamilton in a supplementary Feb. 13 report that this strengthening the treasury by these drafts from abroad had been rendered advisable by various considerations, as well as by the necessities of the sinking fund itself. At the same time, he did not deny, as one among many other co-operating reasons why the drafts had been made, the possibility, should any surplus remain in the treasury growing out of these drafts, of applying it to change the six per cent. debt due the bank into a four and a half per cent. debt due abroad.

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1793. With respect to the temporary loan of \$400,000 from the United States Bank for the charges of the Indian war, it appeared from the statements submitted by Hamilton that, but for that loan, which had been made in monthly installments, beginning with June, there would have been at the command of the treasury, at the commencement of July, at those places from which immediate supplies could be derived, that is to say, at Philadelphia, New York, and Baltimore, the sum of only about seventeen thousand dollars, and on the first of October an actual deficiency at those places of \$125,000, the total amount on hand at that date in the nine depositories then employed—the United States Bank and its branches at Boston, New York, Baltimore, and Charleston, and the state banks of Massachusetts, Providence, New York, and North America—amounting only to \$420,000, even including the loan of \$400,000 from the bank and the proceeds of the bills, the drawing of which had excited such suspicion.

Feb. 28. Upon this statement of facts, which, in the minds of unprejudiced persons, seemed to leave but few loop-holes for objections, even on the part of those most critically disposed, Giles and his fellow-laborers proceeded to frame nine resolutions of censure, for which he asked the vote of the House. The first two resolutions were merely abstract propositions, to the effect that specific appropriations ought to be strictly executed, and that a violation of a law making appropriations was an infringement of the Constitution, which forbade money to be drawn from the treasury except in consequence of appropriations made by law. The third charged the Secretary of the Treasury with dereliction of duty in failing to give information to Congress of the moneys drawn from Europe, and of the progress of such drafts. The fourth charged

him with appropriating a part of the loan of August 4th to pay the interest due upon it, and with having drawn part of that loan into the United States without instructions from the president. The fifth charged him with deviating from his instructions and violating the law by mingling together the two loans of August 4th and August 12th. The sixth was a rehash of the third and part of the fourth, charging him with having improperly drawn into the United States a sum exceeding two millions of dollars, and with having failed to inform the Commissioners of the Sinking Fund of the progress of those drafts. The seventh charged him with borrowing \$400,000 of the United States Bank at a time when a larger sum was deposited in various banks to the credit of the United States. The eighth charged him with indecorum toward the House in undertaking to judge of its motives in calling for information, and in failing to give all the information called for. The ninth proposed to transmit the foregoing resolutions to the President of the United States—as an intimation, doubtless, of the opinion of the House that so faithless an officer ought forthwith to be dismissed from the public service.

Giles moved to refer these resolutions to a Committee of the Whole, which Murray opposed as a useless waste of time, just at the end of the session, when so many important matters remained to be disposed of. "Though the subject was intricate, the various reports of the secretary contained full grounds for a decision to which the House might come at once. The mode in which these resolutions were brought forward did not entitle them to much ceremony. A more unhandsome proceeding he had never known. Common right and the first principles of justice dictated that whoever was charged with a violation of law on which a punishment

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1793. ensued, should have some mode of answering the charges. Such had been the conduct of the House on a recent occasion, in reference to the failure of St. Clair's expedition. Suspicions being entertained that blame lay somewhere, a committee had been appointed to inquire into the matter. The three military officers, particularly concerned, were invited to come before the committee, to explain, to interrogate, to give information. . . Though the Secretary of War, who seemed to be implicated by the report, was not permitted to be heard on the floor of the House, justice and delicacy demanded, that he should be heard somewhere, and the committee had been renewed for that very purpose. The quarter-master general asked to be heard on this floor; that was refused, but he was allowed to attend the committee on whose proceedings his character depended. Regard to decency and to the established rights of citizenship ought to teach gentlemen that, when any man officially responsible to the House falls under the suspicions of any of its members, there ought to be a formal inquiry before charges were laid on the table to which the assent of the House could be asked. In the present case, every rule of justice, and all that delicacy which ought ever to attend such proceedings, had been disregarded. A number of charges had been brought forward—not for inquiry, but for conviction. If any thing could throw a bias against the resolutions independent of investigation, it was the partial and unjust way in which this attempt at censure had been commenced, as tyrannical as it was novel. Resolutions of censure might rise out of the report of a committee of inquiry, which should act as a grand jury, but never could precede it. He hoped the House would not refer to a Committee of the Whole what might be decided at once by a direct vote."

Hamilton's friends, while they somewhat ironically CHAPTER V. expressed their satisfaction that a charge of portentous speculation and corruption had dwindled down into a mere 1793. complaint of assumption of power, exercise of unwarrantable discretion, arrogance and want of politeness toward the House, were disposed to give his accusers full sweep, objecting only to the reference of the first and second resolutions, since they asserted a mere abstract proposition, and of the last, as that must depend on the adoption of the rest. The other six were debated in Committee of the Whole for two days. Giles was supported in his attempts to sustain the resolutions not only by Mercer and Findley, from whom such a course was naturally to be expected, but even by Madison also, who exerted on this occasion his utmost ingenuity, not, however, with very distinguished success; for, in his anxiety to make out a case, he involved himself in some glaring contradictions. Sedgwick, Lawrence, Lee, Fitzsimmons, Livermore, Smith and Barnwell of South Carolina, and Boudinot, denied, in answer, the existence of any legal impediment to the fusion of the two loans, so far as the borrowing was concerned. As to taking money already in Europe to pay interest due in Europe, giving a corresponding credit in the United States to the fund so drawn upon, that was an ordinary and proper financial operation, since it was hardly desirable to transmit money to Holland on purpose to pay interest, when money was already there capable of being so applied; nor was it any great mark of financial wisdom to imagine that the identical moneys received under a loan must be employed, without the possibility of a substitution, for the very purpose of that loan, and none other. In reference to the drawing of money to America, it was maintained that the president, and the secretary as his agent, were fully empow-



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ered to draw the whole fourteen millions thither, had they seen occasion to do so. Two out of the fourteen millions 1793. were expressly designed to be used in the United States, and nowhere else. The shipments made to St. Domingo on account of the French debt more than exceeded the excess over the two millions. So far from there being no need of money for the purposes of the Sinking Fund, most of the purchases actually made by that fund—purchases which had been very useful in raising the price of the stock, and thus preventing its transfer abroad at a rate below par—had been made by means of this very money drawn from Holland, though the amount had since been replaced, and more, from domestic resources. As to any allegations that the secretary had exceeded or disregarded the orders of the president, that was a matter for the president's judgment, not for that of the House. With respect to the failure charged upon him to communicate to the House or the Commissioners of the Sinking Fund information as to his drafts from abroad, as neither the House nor the commissioners were in any way responsible for the custody of the public money, it was quite time enough to communicate information to them when they had asked for it.

The only shadow of a case upon any of the nine resolutions was the doubtful legality of the fusion of the two loans; and that was a mere technical question, no way involving the good judgment, much less the integrity of the secretary, which had been made the subject of such envenomed attacks. Even on that point the full strength of the opposition could not be carried. The fifth resolution obtained only fifteen votes; the third and fourth received twelve votes; the sixth and seventh, eight votes; the eighth, seven votes. Madison voted with Giles throughout for all the resolutions. The result of the

business was, however, much to raise the character of the CHAPTER  
 Secretary of the Treasury by convincing the great body V. \_\_\_\_\_  
 of impartial men, capable of understanding the subject, 1793  
 that, both as regarded talent and integrity, he was admirably qualified for his office, and that the multiplied charges against him had been engendered by envy, suspicion, and ignorance.

While this investigation into Hamilton's conduct employed the House, his plan for paying off the public debt was suffered quietly to drop, after a few hours' consideration in Committee of the Whole. The change was very remarkable which the great zeal of the opposition on this subject underwent from the moment they had an opportunity to do any thing in the matter. To talk about paying the public debt seemed to be much more congenial than to vote taxes for that purpose.

The movement commenced during the former session by the officers of the Massachusetts Continental line, to obtain, out of the savings of the funding system, a compensation for their losses on the certificates in which their dues had been discharged, was seconded during the present session by memorials from the officers of most of the other state lines. Gerry, Giles, Madison, Mercer, and Hartley were disposed to favor this claim. It was opposed by Sedgwick, Boudinot, and others, on the ground that there was, in fact, no such saving of interest as the officers imagined, the delay assured in the redemption of the debt being a consideration for the reduction of the interest. The equal claim of the soldiers was also urged, and the new avenue to speculation of the worst kind which would thus be opened; and, indeed, the claim of all the other Continental creditors, losers by the depreciation of the public stocks. On a motion by Clark to refuse the prayer of the memorial, there were only ten dissenting votes.

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An important act regulated the surrender of fugitives from justice and the restoration of fugitives from service, 1793. as provided for in the Constitution.

Fugitives from justice, on the demand of the executive of the state whence they had fled upon the executive of any state in which they might be found, accompanied with an indictment or affidavit charging crime upon them, were to be delivered up and conveyed back for trial. This part of the act still remains in force.

In case of the escape out of any state or territory of any person held to service or labor under the laws thereof, the person to whom such labor was due, his agent, or attorney, might seize the fugitive, and carry him before any United States judge, or before any magistrate of the city, town, or county in which the arrest was made; and such judge or magistrate, on proof to his satisfaction, either oral or by affidavit before any other magistrate, that the person seized was really a fugitive, and did owe labor as alleged, was to grant a certificate to that effect to the claimant, this certificate to serve as sufficient warrant for the removal of the fugitive to the state whence he had fled. Any person obstructing in any way such seizure or removal, or harboring or concealing any fugitive after notice, was liable to a penalty of \$500, to be recovered by the claimant.

This act, which originated with the Senate, seems to have passed the House without any debate. At the time of its passage, and for many years after, the above provisions attracted little attention. At a later period, they were denounced not only as exceedingly harsh and peremptory, opening a door to great abuses, but as unconstitutional, in subjecting that most important of all juridical questions, the right of personal liberty, to a summary jurisdiction, without trial by jury, or any appeal on

points of law. v. Availing themselves of a decision of the Supreme Federal Court as to the want of power in Congress to impose duties on state officers, most of the free states passed acts forbidding their magistrates, under severe penalties, to take any part in carrying this law into execution; and it was thus substantially reduced to a dead letter. It remains to be seen what success will attend a recent attempt (1850) to revive and re-enforce it, by provisions still more open to objection than those contained in the original act.

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The appropriations for the service of 1793, exclusive of the interest on the public debt, but including the first installment of \$200,000 to the Bank of the United States, amounted to near \$1,900,000, requiring, with the interest on the debt, an income of about \$4,850,000. In anticipation of the receipts of the year, a temporary loan was authorized from the bank, not exceeding \$800,000.

Shortly before the termination of the session, the Supreme Court of the United States decided the first great constitutional question brought before it. One Chisholm, being a citizen of another state, had brought an action against the State of Georgia to recover a sum of money alleged to be due to him from that state. Though the Governor of Georgia had been duly served with a copy of the writ, no appearance had been entered to the action, whereupon the counsel for the plaintiff moved for a judgment by default. This raised the question whether the states were liable to be sued by individual citizens of other states. The affirmative was maintained by Randolph, the attorney general, who appeared for the plaintiff. Instead of making an argument in reply, the counsel retained for the State of Georgia put in a written protest denying the jurisdiction of the court. The case seemed to be plain enough, since, by the terms of the Constitu-

CHAPTER V. tion, the jurisdiction was given in so many express words  
 1793. The idea, however, of being sued by individuals had excited a great fluttering in many of the states, none of which had been remarkably prompt in paying their debts. The objection had been started that, as the states were sovereign, they could not be sued. Judge Iredell, who seemed to lean against the jurisdiction, wished to escape a decision on an objection to the form of the action. The other judges held that the form of the action was well enough; and that, as the United States constituted one nation, the alleged sovereignty of the separate states must be considered to be so far modified thereby as to subject them, under the terms of the Constitution, to suits in the national courts. Before the above decision was given, Johnston had resigned his seat on the bench. Patterson, of New Jersey, was soon after nominated as his successor.

The day after this decision was pronounced, Sedgwick offered a resolution in the House of Representatives for an amendment to the Constitution protecting the states against suits by individuals. No action was had upon this motion at this time, but subsequently such an amendment prevailed—another exemplification of the old maxim, that the net of the law is only strong enough for the small flies.

An act to regulate trade and intercourse with the Indians laid the foundations of that system which the United States have ever since pursued. An account of it, as subsequently extended and modified, will be given hereafter. General Lincoln, Pickering, the postmaster general, and Beverly Randolph, late governor of Virginia, were appointed commissioners for holding the proposed treaty with the Northwestern Indians. Little was hoped from that negotiation; yet it was deemed very essential

to refute the charge that the war had been unnecessarily CHAPTER  
protracted. V.

In the importance of its acts the second Congress can 1793.  
not be compared to the first. It completed, however,  
that general system of administration which gave to the  
new federal government its practical character, and which  
has continued substantially unaltered from that time to  
this. Lasting monuments of these labors remain in the  
federal judiciary, the executive departments, the revenue  
system, including the regulation of ships and commerce  
and the protection of domestic manufactures, the army,  
the post-office, and the general system of Indian policy.

The forms proper to be observed at Washington's en-  
trance upon his second term of office became a subject  
of consideration in the cabinet. Jefferson was for the  
greatest possible simplicity. He proposed that the pres-  
ident should take the oath of office privately at his own  
house; a certificate of it to be deposited in the Depart-  
ment of State. By no means willing that Jefferson should  
purchase at this very cheap rate the reputation of being  
the only Republican in the cabinet, Hamilton readily fell  
in with the same idea. Knox and Randolph dissented;  
and, in conformity with their opinion, Washington took  
the oath of office publicly in the Senate Chamber, in March 4  
presence of the heads of departments, the foreign minis-  
ters, and other public functionaries, prefacing the cere-  
mony by a short speech.

Convinced of the folly of giving occasion to his ene-  
mies by a sumptuous style of living—especially as he  
had to do it at his own expense—Adams had given up  
his house at Philadelphia and gone into lodgings, leaving  
Mrs. Adams at home to manage the farm. "My style  
of living," he wrote to his wife, "is quite popular. I  
am so well satisfied with my present simplicity that I

CHAPTER V. am determined never to depart from it again so far as I have done. My expenses for the future shall, at all events, be within my income, nay, within my salary. 1793. I will no longer be the miserable dupe of vanity. I will never travel but by stage, nor live at the seat of government but in lodgings, while they give me so despicable an allowance." But, while one topic of political declamation was thus lost, another was found. The celebration of Washington's birth-day by visits of congratulation, and by balls, parties, and other festivities, not in Philadelphia only, but in many other principal cities and towns, appeared to the Republicans an alarming step toward monarchy, and became the subject of bitter complaints in Freneau's paper and others of the same leaning. Clark, of New Jersey, a zealous member of the new Republican party, carried his political puritanism so far as to move in the House that the mace, being "an unmeaning symbol, unworthy the dignity of a republican government," be sent to the mint, broken up, and the silver coined and placed in the treasury—a motion for which more than half the opposition voted. These things may seem to be trifles, but are not without importance as going to show the jealous and irritable state of the public mind.

## CHAPTER VI.

RELATIONS WITH FRANCE. GENET. JEFFERSON RETIRES  
FROM THE CABINET. THIRD CONGRESS. MADISON'S  
RESOLUTIONS. PROSPECT OF A WAR WITH GREAT BRIT-  
AIN. MISSION OF JAY.

**H**ITHERTO, since the conclusion of the Revolution-  
ary war, the development of American politics had gone  
on almost wholly from within. But an important change  
was now to take place, carrying back the country for  
many years to a sort of semi-colonial dependence on  
Europe. CHAPTER  
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The progress of the French Revolution, from its first decisive start by the meeting of the States-General almost coterminously with the organization of the new federal government, had been watched in America with the greatest interest. The general enthusiasm which had welcomed the supposed advent of French liberty had indeed encountered, almost from the beginning, some sturdy doubters; and with the progress of the revolution their numbers had gradually increased, especially after the flight of Lafayette. Still the proclamation of the French republic, notwithstanding its bloody preface of Danton's September massacre, had aroused in America a great burst of popular feeling, of which a striking specimen had been displayed in a celebration got up at Boston in honor of the repulse of the Duke of Brunswick and of Dumourier's temporary conquest of the Austrian Netherlands. An ox roasted whole, covered with decorations, and elevated on a car drawn by sixteen horses, the flags of France and the United States displayed from the horns, ●



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 had been paraded through the streets, followed by four carts drawn by twenty-four horses, and containing sixteen hundred loaves of bread and two hogsheads of punch.

While these viands were distributed among an immense crowd collected in State Street (formerly King Street), a select party of three hundred persons sat down in Faneuil Hall to a civic feast, over which presided the venerable Samuel Adams, then lieutenant governor of the state, assisted by the French consul. The children from all the schools, marshalled in State Street, were each presented with a cake stamped with the words "Liberty and Equality." A subscription was raised, and the prisoners confined in jail for debt were liberated. Two balloons, then a new invention, were let off, and in the evening bonfires were kindled, and the State House and other buildings were splendidly illuminated. Similar celebra-

Feb. 6. tions took place in several other places. In Philadelphia, the anniversary of the French alliance was commemorated by a public dinner, at which Governor Mifflin presided. At the head of the table a pike was fixed, bearing the cap of Liberty, with the French and American flags intertwined, the whole surmounted by a dove and olive branch.

The execution of the unfortunate Louis excited a degree of sympathy on behalf of that amiable sovereign; but neither that nor any other of the violences of the Convention served hardly to check the glow of enthusiastic zeal for the French republic—a sentiment soon kindled

April 9. into new fervor by the arrival at Charleston of Citizen Genet, appointed to supersede Ternant as ambassador from France. News of the French declaration of war against England, which Genet brought with him to Charleston, had reached New York five days earlier by the British packet. It could not but excite the deep-

est anxiety in the minds of Washington and his cabinet. CHAPTER VI.  
 By the treaty of commerce, French privateers and prizes were entitled to shelter in the American ports—a shelter 1793.  
 not to be extended to the enemies of France. By the treaty of alliance, the United States were bound, in express terms, to guarantee the French possessions in America. As soon as the news reached Washington, then at Mount Vernon, he hastened to Philadelphia, and, immediately after his arrival, sent to the cabinet officers a series of questions, suggested, probably, by Hamilton, on which their opinions were to be given at a council the next day. Should a proclamation issue to prevent interferences, by citizens of the United States, in the war? Should it contain a declaration of neutrality, or what? Should a minister from the French republic be received? If so, should the reception be absolute or qualified? Were the United States bound to consider the treaties with France as applying to the present state of the parties; or might they be renounced or suspended? Suppose the treaties binding, what was the effect of the guarantee? Did it apply in case of an offensive war? Was the present war offensive or defensive on the part of France? Did the treaty with France require the exclusion of English ships of war, other than privateers, from the ports of the United States? Was it advisable to call an extra session of Congress?

Upon an elaborate discussion of these questions, it was unanimously agreed that a proclamation of neutrality should issue; that the new French minister should be received; and that a special session of Congress was not expedient. Upon other points there were differences of opinion. Hamilton, with whom Knox concurred, thought that the reception of Genet should be with an express reserve of the question as to the binding force of

CHAPTER VI the treaties. They admitted the right of France to change her government, but they questioned her right, 1793. after such a change, to hold the United States to treaties made with a view to a totally different state of things, and which, if now carried out, might impose obligations on the United States, and expose them to dangers never dreamed of when the treaties were made. As to the effect of the guarantee, supposing the treaties binding, they held that it did not apply to an offensive war on the part of France, which the present war must be taken to be, as she had made the first declaration of it; pending, therefore, the present war, the guarantee must be considered as suspended.

Jefferson, whom Randolph inclined to support, thought the treaties as binding in case of the republic as in case of the king. As to the effect or operation of the guarantee they declined to give any opinion, it not being at present necessary. Yet, by agreeing to the proclamation of neutrality, they concurred in putting a limit to the binding force of that guarantee, rather difficult to reconcile with its existence at all. Hamilton's views had at least the advantage of consistency; and the course which he advised, of explicitly declaring the obligation of the guarantee suspended, would have found ample justification in the course adopted by the French Convention itself. Before news reached France of Washington's proclamation of neutrality, orders had been issued there, in direct repugnance to the treaty of commerce with the United States, for the capture and forfeiture of enemy's goods on board neutral vessels; whereas the treaty provided that free ships should make free goods. On the representation of Morris, this order was suspended for a few days as to American vessels, but this suspension was soon recalled, and the treaty in that respect, as

afterward in others, quite disregarded. The excuse was the peculiar position in which France was placed, in substance the same argument on which Hamilton relied. 1793. The course actually adopted had this disadvantage in it: by seeming to recognize the treaties as in full binding force, guarantee and all, it gave France an opportunity, of which afterward she amply availed herself, to set up claims upon the United States quite inconsistent with their independent neutrality.

The proclamation, as issued, announced the disposition of the United States to pursue a friendly and impartial conduct toward all the belligerent powers, a course alike required by their duty and their interest. It exhorted and warned the citizens to avoid all acts not in accordance with such a disposition; and declared the resolution of the government not only not to interfere on behalf of those who might expose themselves to punishment or forfeiture under the law of nations by aiding or abetting either of the belligerents, but to cause all such acts done within the jurisdiction of the United States to be prosecuted in the proper courts.

Whether the state of the public feeling would have admitted, on the part of the American government, any position less ambiguous than the one actually taken—such, for instance, as a suspension of the guarantee—may well admit of a doubt. Not only did enthusiasm run very high on behalf of the French republic, but that feeling was seconded and inflamed by all the hatred of Great Britain treasured up during the Revolutionary war. Genet, the new French ambassador, knew very well how to take advantage of both these sentiments. Placed, according to his own account, at the age of twelve years, in the bureau of foreign affairs, he had translated, under his father's direction, into the French language,

CHAPTER VI. the new American Constitutions and many political essays, "thus contributing to penetrate the French with 1793. the spirit of '76." After being seven years head of the bureau at Versailles, under the direction of Vergennes, he had passed one year at London in a diplomatic capacity, two at Vienna, one at Berlin, and five in Russia, whence he had recently been expelled by the Empress Catharine. Having been lately employed in revolutionizing Geneva and annexing it to the French republic, he had been selected by the Girondins, then in power, as a fit person to be sent to America, the object of his mission being, in fact, as appeared from his instructions afterward published, to draw the United States, as far as possible, into making common cause with France. By no means deficient in abilities, nor without experience as a diplomatist, he was completely filled with that terrible fanaticism, setting all ordinary rules of prudence, and, indeed, of morals at defiance, hitherto, in the history of the world, connected mostly with religious ideas, but passing at this era into politics, and seeming to concentrate in the hearts of the popular leaders, and in an active mass of the people themselves, all the hatred, rage, and revenge which centuries of oppression had served to accumulate; an enthusiasm aggravated to the highest pitch by the union of the kings and aristocracies of Europe against the French republic; and potent enough to drive even wise men into madness.

Genet's reception at Charleston, on the part of Governor Moultrie and the citizens, had been enthusiastic. Being provided with blank commissions, both naval and military, he had caused to be fitted out two privateers, manned mostly with Americans, which put to sea under the French flag, and, cruising along the coast, soon made numerous captures of homeward-bound British vessels.

He also assumed, under a decree of the Convention, the extraordinary authority of authorizing the French consuls throughout the United States to erect themselves into courts of admiralty for trying and condemning such prizes as the French cruisers might bring into American ports. The frigate L'Ambuscade, in which he had arrived at Charleston, soon sailed for Philadelphia, making prizes of several British vessels by the way. One was captured within the Capes of the Delaware, the restitution of which was speedily demanded by the British minister, who presented, also, numerous other complaints against the doings of the privateers fitted out at Charleston. At a cabinet council held to consider these memorials, it was agreed that the privateering commissions issued by Genet, as well as the condemnation of prizes by the French consuls, were unauthorized by treaty, irregular, and void. It was also agreed that the Grange, the vessel captured by the French frigate L'Ambuscade within the Capes of the Delaware, must be restored to the British owners. As to the vessels captured by the privateers fitted out by Genet and sent into the United States, it was the opinion of Hamilton and Knox that, as these captures were manifestly illegal, adherence to the proclamation of neutrality required that the captured vessels should be restored to their owners, as otherwise the United States would allow themselves to be made the instrument of injury to Great Britain. Jefferson and Randolph maintained, on the other hand, that if the captures were illegal, as to which they did not choose to commit themselves, the owners ought to be left to the courts of law to recover their property; that a disavowal of assent to the proceedings in which these captures originated, and the steps taken for future prevention, ought to be satisfactory to the English; and that to at-

CHAPTER VI. tempt to restore the captured vessels by force would amount to reprisals against the French republic—a very serious matter indeed, and which the executive had no right to enter upon without special authority from Congress. Hamilton insisted, in reply, that here was not a question of mere ownership, proper for the courts, but a question of neutrality, demanding, as it was admitted the case of the *Grange* did, the direct interference of the government, which Great Britain, under the circumstances, would have a right to expect, and of which France would have no right to complain. On this disputed point—as to which Washington subsequently conformed to the opinion of Hamilton—decision was suspended. Meanwhile, the resolutions on the points agreed to were communicated to Ternant. This communication Ternant handed over to Genet, who arrived just at this time at the seat of government.

For reasons of policy as well as security, the French minister had proceeded from Charleston to Philadelphia by land. His journey had been almost a triumphal procession. Those same Republicans who had severely reprobated any excessive marks of respect toward Washington, thought it almost impossible to do too much to honor the French republic in the person of her minister.

May 16. On his approach to Philadelphia, he was met at Gray's Ferry by an immense crowd, who escorted him into the city. The next day he received addresses from numerous societies, and from the citizens at large, who waited upon him in a body for that purpose. The day following he was presented to the president and officially accredited. But on this occasion he was by no means so well satisfied. Not only did the president's address seem very tame after all the fervid speeches he had heard between Charleston and Philadelphia, but he actually found

the president's parlor ornamented "with certain medals of Capet and his family." Moreover, the Marquis de Noailles and other emigrant Frenchmen had been lately admitted to the honor of a presentation. Genet, however, was consoled in the evening by a republican feast, on which occasion was sung an ode in French, composed by Citizen Duponceau, who had come originally to America as an aid to Baron Steuben, and was now settled at Philadelphia, where he rose afterward to distinction as a lawyer and man of letters. Citizen Freneau, being one of the company, was requested to translate this ode into English verse. The Marseilles Hymn was sung, with two additional stanzas composed by Genet himself, with special reference to the navy, previous to which a deputation of sailors from the frigate L'Ambuscade entered the hall, embraced, and took their seats. After the last regular toast, the red cap of Liberty was placed on the head of Citizen Genet, and then traveled from head to head, each wearer, under its inspiration, delivering a patriotic sentiment. The table was decorated with the tree of Liberty and the French and American flags; and the officers and sailors of the L'Ambuscade, to whom they were finally delivered, swore to defend till death these tokens of liberty and of American and French fraternity. From the moment, indeed, of Genet's arrival in the United States, the existence became evident, not only of a wide-spread and enthusiastic sympathy for France, but of a faction more French than American, ready and anxious to go all lengths toward identifying the French and American republics.

In his address to the president, Genet had disavowed any wish to involve the United States in the pending war. Yet it was sufficiently evident, from his proceedings at Charleston, that he expected favors toward France



CHAPTER VI. and aid to her belligerent operations wholly inconsistent with a neutral position on the part of the United States.

1792. Two or three days after his formal introduction to the  
May 22. president, he opened his diplomatic correspondence by a request for immediate payment, by anticipation, of the remaining installments of the French debt, amounting to \$2,300,000. As an inducement, he offered to invest the amount in provisions and other American products, to be shipped partly to St. Domingo and partly to France.

May 23. This request was followed up by a very grandiloquent paper, communicating a decree of the French Convention, by which all the ports of France and her colonies were freely opened to American vessels on the same terms as to those of France. Such a relaxation of commercial restrictions had been usual with France on the breaking out of war, as a convenience toward obtaining needed supplies; but Genet represented it to be now granted as a boon of pure good will toward America. He communicated at the same time his authority to propose a new treaty of commerce, "a true family compact," on "the liberal and fraternal basis" of which France wished to raise up "the commercial and political system of two peoples, all whose interests were confounded." To this proposal, the vague generalities of which seemed rather alarming, it was answered that nothing could be definitively concluded without the concurrence of the Senate, which was not to meet again till the autumn; and there the matter appears to have rested. The request for money was met by a statement that the United States had no means of anticipating the payment of the French debt except by borrowing money in Europe, which could not be done at present on favorable terms. Nor did Hamilton hesitate to tell Genet that, even were there no other obstacle, the anticipation of payment at this

time might be regarded by Great Britain as a breach of neutrality. Greatly disappointed and offended at this reply, Genet expressed his intention to make the debt to France available for his purposes by giving assignments of it in payment for provisions and other supplies. But to this the American government decidedly objected, expressing the hope that, in a matter of mutual concern, nothing would be done but by mutual consent.

Genet assented to the restoration of the Grange, but protested very vehemently against the resolutions of the cabinet on the subject of privateers. He alleged that the privateers commissioned by him were owned by French houses at Charleston, were commanded by French officers, or by Americans who knew of no law or treaty to prevent their acceptance of commissions, and who had gone to sea by consent of the governor of South Carolina. As the treaty of commerce secured to the parties the right of bringing prizes into each other's ports, that provision must include the control and disposal of the prizes so brought in. He also argued that the twenty-second article of the treaty, forbidding either party to allow the enemies of the other to fit out privateers in their ports, must be understood, by what the lawyers call a negative pregnant, to imply a mutual right in the parties themselves to fit out privateers in the ports of the other. As to the Americans on board the privateers, they must be considered, in taking part with France, to have renounced for the time the protection of their own country, which therefore became no longer responsible for their conduct.

Just before Genet's arrival at Philadelphia, one of the privateers fitted out at Charleston, and named the Citizen Genet, after the French minister, had ascended the Delaware, bringing with her one out of four prizes she

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June 14.  
May 2.

- CHAPTER VI had taken. This led to another cabinet council, which resulted in an intimation to Genet that the privateer, his namesake, must depart forthwith from the waters of the United States; in orders sent to all the ports to seize all vessels fitted out as privateers, and to prevent the sale of any prizes captured by such vessels; and in the arrest of Citizens Henfield and Singleterry, two Americans who had enlisted on board the Citizen Genet at Charleston, and against whom, at least against Henfield, an indictment was presently found. "The crime laid to their charge," said the French minister, in a note of inquiry on the subject, "the crime, which my mind can not conceive, and which my pen almost refuses to state, is the serving of France, and the defending with her children the common and glorious cause of liberty." To this impassioned appeal Jefferson replied by sending a copy of the attorney general's opinion, that Henfield, in enlisting on board a foreign privateer to serve against nations at peace with the United States, was acting in violation of treaties; the supreme law of the land, and was guilty of an indictable offense. This was presently followed by another note, in which was reiterated, though in very mild terms, the fixed opinion of the president, that it was the right of every nation, and the duty of neutral nations, to prohibit acts of sovereignty within their limits injurious to either of the warring powers; that the granting of military commissions within the United States by any foreign authority was an infringement of their sovereignty, especially when granted to American citizens as an inducement to act against the duty which they owed to their own country; and that the least to be expected was the immediate departure of any vessels which might, prior to this warning, have been so illegally commissioned and equipped.
- June 8. Genet, in reply, denounced these doctrines as contra-

ry to the principles of natural right, the usages of nations, the French treaties, and even the proclamation of neutrality. The commissioning of privateers, which he seemed disposed to represent as a mere arming for defense, was, in his opinion, not an act of sovereignty, but of consular administration, "which, without an act of Congress to that effect, the president had no right to prevent." He offered, however, by way of compromise, to confine the grant of commissions to such commanders as would bind themselves, by oath and security, to respect the territory of the United States and the political opinions of the president until "the representatives of the sovereign"—meaning the representatives of the people assembled in Congress—should confirm or reject them. On the support of the people he evidently relied. "Their fraternal voice," he wrote, "has resounded from every quarter around me, and their accents are not equivocal—they are pure as the hearts of those by whom they are expressed."

Still more vehement were the remonstrances of Genet at the seizure at New York of a French privateer fitted out there, and just ready to go to sea, by a body of militia ordered out for that purpose by Governor Clinton, in consequence of the recent instructions from Philadelphia.

Already, indeed, an open struggle had commenced, the result of which for some time appeared quite doubtful, between the executive authority of the United States on the one hand, and Genet and the French faction on the other. Freneau's Gazette and the General Advertiser, both printed at the seat of government—the latter famous afterward as the Aurora, published by Bache, a grandson of Franklin, who had received his education in France, and was totally carried away by the French fanaticism—assailed the proclamation of neutrality with

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great violence, as a piece of usurpation on the part of the executive, issued without authority, and in derogation of the treaties with France, of the gratitude and sympathy due to that country, and of the rights of Congress, to whom only the decision belonged. Genet was exhorted to act with firmness, since the people were his friends, and since it was they, and not the president, who were sovereigns. The key-note thus struck at Philadelphia was soon responded to by Greenleaf's *Patriotic Register* at New York, by the *Chronicle* at Boston, and, indeed, by the opposition presses generally.

May 23. It appears from Jefferson's *Ana* that, in a private conversation about this time, Washington expressed his opinion of Freneau's paper in terms amounting to an intimation that Jefferson's interposition was desired, and perhaps the dismissal of Freneau from his office of translating clerk. "But that," observes this faithful secretary, "I would not do;" and he proceeds, with a partiality little short of paternal, to extol Freneau's paper as having saved the Constitution, then fast galloping into a monarchy.

Nor was it from newspapers only that Genet found encouragement and support. Shortly after his arrival at Philadelphia, there had been formed in that city, in imitation of the famous clubs of Paris, so predominant at that moment in the politics of France, a "*Democratic Society*," intended to have affiliated branches in all the counties of the state, the immediate object of which seems to have been to control the state politics, and to infuse into them a larger portion of the new French enthusiasm. Imitations or offshoots of this society soon sprung up in various parts of the Union. French in all their feelings, and not a few of them Frenchmen by birth, inspired with all the fanaticism then prevalent in

France, the members of these societies seemed bent upon forcing the United States into that "family compact," that "confusion of interests," which Genet had suggested as one of the objects of his mission. It was these societies which first introduced the name DEMOCRAT, as a party appellation, into American politics; but a long time elapsed before that name was accepted by any but the more ultra portion of the opposition. It was never recognized by Jefferson; and even of these societies, several preferred to call themselves Republican. It was only in combination with that earlier name that the epithet Democratic came into general use, the combined opposition taking to themselves the title of DEMOCRATIC REPUBLICANS.

The enthusiasm in favor of France, to which the recent opening of the French West India ports tended to add, operated very much to diminish the support which the federal government had hitherto received from the State of Pennsylvania, and especially from the city of Philadelphia. Governor Mifflin and Chief Justice McKean, altogether the most popular and influential men in that state, determined also to retain their popularity and to secure Mifflin's re-election as governor, came out decidedly as partisans of France, and openly in favor of a war with Great Britain. Frederic A. Muhlenburg, speaker of the first Congress and member elect to the new one, took the same side. The respectable Rittenhouse accepted the post of president of the Democratic Society, of which Duponceau was secretary, while Sergeant, the attorney general of the state, as well as several other well-known leaders among the old Revolutionary Whigs, were active and zealous members. Among the most busy in this movement was Alexander J. Dallas, Mifflin's secretary of state, a native of Jamaica,

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but educated in Edinburgh, and an emigrant to the United States since the conclusion of the Revolutionary war. For some time he had with difficulty supported himself with his pen, having undertaken the editorship of a monthly magazine. But his ability and adroitness had raised him to a high rank at the bar, and he had begun to take an active part in the politics of Pennsylvania. Among other recent steps by Mifflin's political friends to secure their hold upon that state had been the obtaining a charter, during the past winter, for the Bank of Pennsylvania, in which the state itself became a stockholder, an imitation, in fact, of the Bank of the United States, and intended as an offset to the old Bank of North America, the control of which was in hands less friendly to Mifflin.

By the indications of a strong popular sentiment in his favor, Genet was encouraged to set the remonstrances of the government at defiance, and to persist in his original policy of carrying on, from the ports of the United States, a privateering warfare against British commerce. He was taught by the opposition newspapers to believe—and it would seem that even Jefferson himself made confidential communications of the same sort—that Washington was acting under the influence of a British monarchical faction, and that every thing was to be hoped from the predominance of republican opinions in the new Congress now in the progress of being chosen.

Besides the *Sans Culotte* and the *Citizen Genet*, the two privateers fitted out at Charleston, and both of which persisted in cruising from the ports of the United States, two others, the *Cincinnatus* and *Vanqueur de la Bastile*, were equipped at the same port, the *Anti-George* at Savannah, the *Carmagniole* in the Delaware, a schooner, the *Roland*, and a sloop, at Boston. In conjunction with

the frigates L'Ambuscade and Concord, those cruisers captured more than fifty British vessels, quite a number within the very waters of the United States. The French consuls, in spite of the prohibitions hitherto issued, still persisted in trying and condemning these prizes, not, however, without occasional appeals, on the part of the British owners, to the legal tribunals for the rescue of their property. But it was in the case of the Little Sarah, an English vessel captured by the frigate L'Ambuscade, and sent into Philadelphia, where Genet, under the very eye of the federal authorities, undertook to equip her as a privateer, with the new name of the Little Democrat, that the authority of the government was most distinctly trampled under foot. This equipment, discovered by Hamilton, was communicated by him to the cabinet, to which Washington, during a short absence at Mount Vernon, had intrusted the control of affairs. An investigation was ordered; the fact was ascertained, and the probability, also, that the vessel might sail the next day. Governor Mifflin being called upon to interfere, sent Dallas, his secretary of state, at midnight, to request Genet to save the necessity of employing force by himself detaining the vessel. Upon receipt of this message the French minister fell into a great rage. The president, he said, was a misled man, wholly under the influence of those inimical to France. He was resolved to appeal from him to the people, the real sovereigns—an intention already intimated in some of his official letters, and still more distinctly stated in subsequent ones.

As Genet would give no distinct pledge, Mifflin ordered out a detachment of militia to seize the vessel. But, before this decisive step was taken, Jefferson, always very tender of the feelings of the French minister, and very fearful of any disrespect to the French republic,



- CHAPTER VI waited on Genet in person, to induce him to detain her till the arrival of the president, who was expected in a day or two. Genet again broke out into the same complaints as before. He declared that any attempt at seizure would be resisted by the crew; but he intimated, at the same time, that the ship was not yet ready for sea, and that, although she intended to drop a little way down the river, it was not with the design of sailing. Jefferson caught at this bait; and on his suggestion to Mifflin that the vessel would not sail immediately, the militia were dismissed. Knox and Hamilton the next day proposed to erect a battery on Mud Island, and to fire at, and even to sink, the privateer if she attempted to pass. But in this Jefferson would not concur; and she soon afterward fell down to Chester, quite beyond the reach of any means then within the power of the government to stop her.
- July 7.
- July 8.
- July 11. On his arrival at Philadelphia, having examined the papers relating to this affair, Washington addressed a note to Jefferson intimating some discontent at these proceedings. "What is to be done in the case of the *Little Sarah*? Is the minister of the French republic to set the acts of this government at defiance with impunity, and then threaten the executive with an appeal to the people?" The next day, at a cabinet council, it was resolved to refer to the judges of the Supreme Court the case of the *Little Democrat*, as well as of several other privateers and their prizes—indeed, all the questions that had been raised as to the duties of neutrality; and Genet was informed that the detention of these vessels was expected until a final decision was had. But, in spite of this intimation, the *Little Democrat* sailed a few days after, and the other vessels took the earliest opportunity to imitate her example.
- July.

Meanwhile Democratic societies continued to spread and multiply, and the attacks upon the president in the opposition papers to grow more and more violent. Under these circumstances, Hamilton took the field in defense of the proclamation of neutrality in a series of articles under the signature of Pacificus, in which he maintained, with great ability, not only the policy of that measure, but the president's right, by its issue, to decide upon the position in which the nation stood. To these articles a reply appeared, signed Helvidius, and written by Madison at the special instigation and request of Jefferson, who still continued to play the somewhat inconsistent part of secret head of the opposition and leading member of the administration. In the letter pressing Madison to take upon himself the task of answering "Hamilton's heresies," the assumption especially that the president had a right to decide the question of neutrality, Genet is spoken of as a hot-headed, passionate man, without judgment, likely by his indecency to excite the public indignation, and rendering Jefferson's own position "immensely difficult." Indeed, he soon felt himself in a position so awkward as to send a note to the president expressing his intention to resign at the close of the ensuing month of September.

Washington's feelings at the violence with which his policy began to be assailed were strongly expressed in a letter to Henry Lee. "That there are in this, as well as in all other countries, discontented characters, I well know, as also that these characters are actuated by very different views; some good, from an opinion that the measures of the general government are impure; some bad, and, if I might be allowed to use so harsh an expression, diabolical, inasmuch as they are not only meant to impede the measures of the government gener-

CHAPTER VI. ally, but more especially, as a great means toward the accomplishment of it, to destroy the confidence which it  
 1793. is necessary for the people to place, until they have unequivocal proof of demerit, in their public servants. In this light I consider myself, while I am an occupant of office; and if they were to go further, and call me their slave, I would not dispute the point.

“But in what will this abuse terminate? For the result, as it respects myself, I care not; for I have a consolation within that no earthly efforts can deprive me of, and that is, that neither ambition nor interested motives have influenced my conduct. The arrows of malevolence, therefore, however barbed and well pointed, never can reach the most vulnerable part of me, though, while I am up as a mark, they will be continually aimed. The publications in Freneau’s and Bache’s papers are outrages on common decency; and they progress in that style in proportion as their pieces are treated with contempt and are passed by in silence by those at whom they are aimed. The tendency of them, however, is too obvious to be mistaken by men of cool and dispassionate minds, and, in my opinion, ought to alarm them, because it is difficult to set bounds to the effect.”

Meanwhile, the embarrassments of the government continued to increase. The judge of the Pennsylvania district had decided that he had no power to interfere for the restoration of prizes captured within the waters of the United States, that being rather a question of politics than of property. The judges also of the Supreme Court, who had been appealed to as to the rights and duties of the United States growing out of their neutral position, were unwilling to give any opinion on the subject, unless in some suit legally brought before them. The indictment against Hatfield coming on for trial, in

spite of a clear case on the evidence, and a distinct and positive charge as to the law from the presiding judges, the prisoner was acquitted by the jury, to the vast delight of the French faction, and amid the acclamations of the assembled multitude. Genet's correspondence grew every day more insolent; and, as the necessity of some decided course was apparent, a new cabinet council was held to consider what should be done.

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After reading over Genet's correspondence, it was unanimously agreed to send a copy of the whole, with a full statement of Genet's conduct, to Gouverneur Morris, to be laid before the Executive Council of France, with a letter requesting his recall. Jefferson was for expressing this desire with great delicacy; the others were for peremptory terms. It was also resolved to furnish Genet with a statement, the same in substance with that sent to France, and to let him know that his recall had been demanded—a course warmly opposed by Jefferson, who gave as his reasons that it would render Genet still more active, and might even endanger confusion. It was next proposed to publish the whole correspondence, with a statement of all the proceedings, by way of that very appeal to the people which Genet had threatened. This truly democratic course, so necessary at the present moment to bring out an expression of public opinion in support of the government, and of which the wise policy was afterward tested by experience, though very warmly advocated by Hamilton, and though Washington was much inclined to adopt it, was defeated by the opposition of Jefferson and Randolph. Such an appeal, they urged, might give offense to France, and cause her to retract her offer of a treaty of commerce. Genet would also appeal; and as there had been differences of opinion in the cabinet as to the decisions arrived at, so

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1793. likely to have great weight with Washington was very  
artfully touched: such an appeal would tend to convert  
him from the head of the nation into the head of a party  
In the course of this discussion, on an allusion by Knox  
to some recent libels, Washington became very much  
excited, and, as Jefferson records with evident exulta-  
tion, "got into one of those passions when he can not com-  
mand himself; ran on much on the personal abuse which  
had been bestowed upon him; defied any man on earth  
to produce one single act of his, since he had been in the  
government, which had not been done on the purest mo-  
tives. He had never repented but once the having slip-  
ped the moment of resigning his office, and that was  
every moment since; and, by God, he had rather be in  
his grave than in his present situation. He had rather  
be on his farm than to be made emperor of the world;  
and yet they were charging him with wanting to be a  
king. That rascal Freneau sent him three of his papers  
every day, as if he would become the distributor of them,  
an act in which he could see nothing but an impudent  
design to insult him." It was only for a moment, and  
that very rarely, that Washington ever lost his self-com-  
mand. He soon recovered himself, and the discussions  
went on. A circular was agreed upon, to be addressed  
to the collectors of the customs, setting forth what might  
and what might not be done by the ships of the bellig-  
erents within the waters of the United States; and di-  
recting them to keep strict watch upon whatever passed  
within the harbors, creeks, and inlets of their respective  
districts, and upon discovery of any thing suspicious, to  
give immediate notice to the United States attorney for  
the district and to the governor of the state. To the  
state governors requests had already been sent to exert

all their authority, to the extent of calling out the militia if necessary, for the seizure and detention of prizes illegally taken, and of all vessels violating the neutrality of the United States. Information was communicated to the British minister that compensation would be made to the owners of British vessels captured by French privateers fitted out within the United States subsequent to the notice to Genet of June 5th that such equipments would not be allowed. But for the future, as the government intended to exert all the means in its power for the prevention of such breaches of neutrality, the British government must regard those efforts as a full discharge of neutral obligations. Genet was called upon to give up all the vessels captured under the above-mentioned circumstances, as otherwise the French government would be held responsible for the pecuniary amount of the necessary indemnities; also, all vessels captured within the waters of the United States—the distance of a marine league from the exterior coast being fixed as the limit.

Considering the prevailing ignorance on the part of the people as to the exact duties which a position of neutrality imposed, and the strong sentiment felt by many that the United States ought to side with France at any rate, impelled thereto as well by treaty obligations as political sympathy, the position of the cabinet would have been sufficiently difficult even had all its members been firmly united.

But to all the former points of difference between Jefferson and Hamilton, new ones had been added, not so much as to the meaning and effect of the proclamation of neutrality, but as to the entire policy to be pursued by the government with respect to the belligerents. Hamilton considered the president's proclamation as having decided

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 1793. ing to a suspension of the guarantee during the pending  
 war. Jefferson, on the other hand, regarded the procla-  
 mation as a merely reserving the question till Congress  
 could meet. He considered the guarantee in full bind-  
 ing force ; and though he was not disposed to plunge the  
 United States into the war, if it could be avoided, he  
 was not the less inclined to favor France by all possible  
 means.

To accept his proffered resignation would lead to great-  
 er unanimity in the cabinet, but it would also expose the  
 government to new and more dangerous assaults. Wash-  
 ington's confidence in Jefferson's personal honor and po-  
 litical integrity was as yet unshaken. It was certain  
 that Jefferson himself possessed the confidence of a pow-  
 erful and growing party, and that his retirement from  
 office would be at once denounced as the triumph of anti-  
 republican principles in the cabinet. He was, therefore,  
 solicited to remain, and readily agreed to postpone his  
 resignation till the close of the year. By that time the  
 new Congress would be in session, containing, at least  
 in the Lower House (so Jefferson fondly expected), a Re-  
 publican majority able to hold Hamilton in check. Should  
 he retire before the meeting of Congress, leaving Hamil-  
 ton uncontrolled in the cabinet, advantage might be taken  
 of the folly and insolence of Genet to bring the people  
 over to Hamilton's views, and perhaps to embroil the  
 United States with France. Such we may conjecture  
 to have been Jefferson's motives for continuing in the  
 cabinet, in spite of the "immense difficulty" of his equiv-  
 ocal position, and for undertaking the composition of the  
 proposed letter to Morris, containing a statement of Ge-  
 net's conduct, and requesting his recall. As finally agreed  
 Aug. 23. to by the cabinet, this was a very able and vigorous doc-

ament. Genet, indeed, in his comments upon it, bitterly reproached Jefferson with having allowed himself to be made the instrument of so ungenerous an attack, "after pretending to be his friend and initiating him into mysteries which had inflamed his hatred against all those who aspire to an absolute power"—pregnant allusions to a confidential intercourse between the French ambassador and the Secretary of State, very different from the tenor of their official correspondence. The same confidential intercourse seems to be further alluded to in Genet's sarcastic intimation "that it was not in his character to speak, as many people do, in one way, and to act in another—to have an official language and a language confidential." These side thrusts, to which no reply was ever made, make it easy to see that Jefferson had not exaggerated the difficulty of the position in which Genet's imprudent violence had placed him.

Pending this application for the recall of Genet, the balance, which had seemed so doubtful, began at length to settle down in the government's favor. Hitherto a few noisy enthusiasts, a few violent newspapers, and the newly-organized democratic clubs, had taken it upon themselves to speak, and had made Genet believe—if, indeed, Jefferson himself did not incline to the same opinion—that they were speaking the sentiments of the American people. The apathy with which this usurpation had been allowed, on the part of the great body of more sober citizens, presently gave way before the consideration that, if suffered to go on, it would inevitably involve the country in a war with England, and would thus sweep from the ocean all that growing commerce which had given such a start to the public prosperity. Though the advice of Jefferson and Randolph had prevented a publication of the correspondence with Genet,

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CHAPTER VI. hints already began to leak out as to the insolence of his conduct. On the occasion of a visit of his to New York, 1793. to receive the compliments of his partisans there, a statement of his having insulted the president, by threats to appeal to the people, appeared in one of the city newspapers, and when the truth of that statement was denied, Chief Justice Jay and Rufus King assumed the responsibility of it. The reference was to the threats made to Dallas, of which an account has been given above. This statement drew out a letter from Genet to the president, in which, after many complaints of the treatment he had received, he put the question whether Washington had been threatened, as this statement alleged. Genet received a note, in reply, from the State Department, which he had the folly to publish along with his own letter, informing him that direct correspondence with the executive was not according to diplomatic usage, and that the president did not think fit to make any statement as to a declaration which, whether made to him or to others, was, perhaps, immaterial.

The appeal to the people was thus actually made ; for the published correspondence was a sufficient indication how matters stood, Genet's letter being little better than a bill of indictment against the president. The same day that Genet's partisans in New York had received him with the ringing of bells and the firing of cannon, a public meeting had been held in that city, in approval of the policy of the proclamation of neutrality. This example was soon followed in all the principal towns and cities, and a demonstration of public opinion speedily appeared, which added effectual weight to the orders lately issued by the government for the strict observance of neutral duties. The more violent French partisans, and the newspapers in that interest, exerted themselves with

vigor to check this counteracting tide of public sentiment, and to defend the course of the French minister. CHAPTER VI.

Dallas came to his assistance with some modification or softening of the report he had made of the threats to him of an appeal to the people, and Genet was thus encouraged to demand of the president that Jay and King, who were assailed by the opposition newspapers in the grossest terms, should be prosecuted for libel. This the attorney general declined, at the same time informing Genet that the law was open to him to commence a prosecution on his own account. All this did but damage Genet still the more in the estimate of all reasonable people. But while the determination was very emphatically expressed to allow no foreign interference between the people and the government, the general tenor of the resolutions adopted expressed also a very warm friendship and sympathy for France.

As the French consuls and vice-consuls were still disposed to exercise their pretended admiralty jurisdiction, a circular was issued threatening to revoke the exequatur—the permission, that is, on the part of the American government to exercise consular authority—of any officer who might persist in such usurpation. In case of the French vice-consul at Boston, it soon became necessary to carry this threat into execution. He had the insolence, by the help of a French frigate at anchor in that harbor, to rescue out of the hands of the United States marshal a vessel brought in as a French prize, but upon which process had been served at the suit of the British owners, who claimed that she had been illegally captured within the waters of the United States. The attempt failed, however, to obtain an indictment against this deposed consul for usurpation of authority.

It was not on the sea-coast alone that it was neces-

CHAPTER VI. sary to guard against Genet's machinations. He had

two other projects on foot: one for a military expedition, 1793. to be organized in South Carolina, and to rendezvous in Georgia, for the invasion of Florida; the other for a like expedition against New Orleans, to be set on foot in Kentucky. The leadership of this latter expedition had been undertaken by George Rogers Clarke, who had distinguished himself during the Revolutionary war by the conquest of the Illinois country, but whom the combined influence of intemperance and pecuniary embarrassment had reduced at this time to an equivocal position. There were in the State of Kentucky very inflammable materials. The refusal by Spain of the free navigation of the Mississippi was regarded as a great grievance, and suspicions were very generally entertained that no proper efforts had been made to secure it. The newly-organized Democratic society of Lexington had taken this matter in hand, and had got up a remonstrance to the president and Congress not a little extravagant in its tone. French emissaries were employed both in Kentucky and South Carolina, and commissions were issued, but both enterprises were greatly impeded by want of money. An advance of the remainder of the debt due to France seems to have been confidently relied upon as a fund out of which Genet might carry on the various undertakings intrusted to his charge, including the general superintendence of the maritime war against England on the American coast, and the purchase of provisions for the supply both of France and her colonies. A further pecuniary burden was also thrown upon him in consequence of a new civil war, in addition to the servile one already prevailing there, which had broken out in the unhappy colony of St. Domingo between the commissioners lately dispatched thither by the French Con-

vention and the former authorities of the island, whom the commissioners accused of royalism and anti-Republican ideas. CHAPTER  
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Of the extent of the operations intrusted to Genet's charge, an idea may be formed from a letter, in which he again pressed for authority to draw upon the installments of the debt due to France for the years 1794 and 1795. "Two thousand seamen and soldiers whom I support are now on the eve of wanting bread. The repairs of our vessels are at a stand. The indispensable expeditions of subsistence for our colonies and France are suspended." But to this appeal the Secretary of the Treasury replied that, according to his view of the state of the account, the installments for 1794 were already anticipated. The means of meeting drafts upon the installments of 1795 must entirely depend upon the success of loans to be negotiated in Europe—a result, in the present state of political affairs, not to be relied on. The acceptance of such drafts might therefore endanger a failure of payment ruinous to the credit of the United States. It may indeed be supposed that Hamilton was very little inclined to supply money to be employed, as there was too much reason to suspect it might be, in setting the neutral policy of the United States at defiance.

So insolent, indeed, continued to be the whole tone of Genet's correspondence, and so open his attempts to stir up the people, the state governments, and the new Congress about to assemble against the executive, that Washington proposed to the cabinet to discontinue his functions and to order him away. He was himself strongly inclined to this course, and Hamilton and Knox were of the same opinion; but this step, like that of publishing the dispatches, was defeated by Jefferson and Randolph, against whose united opinion Washington did not choose

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1793. to act. They suggested that Genet would not obey the order, and that such a step might revive his popularity, and give him a majority in the new Congress soon to assemble. Besides, the measure was a very harsh one, and might expose the United States to a declaration of war on the part of France, the only nation on earth sincerely their friend.

While the government was thus struggling against the domineering violence of Genet, the enthusiasm of his partisans being sustained in a degree by a general feeling of partiality for France, the difficulty of preserving peace was not a little increased by the course adopted by Great Britain, in pursuance of what she claimed to be her belligerent rights. A rich commerce had presented itself to American shipping in consequence of the decree of the French Convention allowing to neutrals the privileges of French ships. But not only did the British cruisers claim the right to seize French property on board American vessels—thus giving the finishing stroke to the misery and destitution of many refugees from St Domingo, flying to the United States with the remnant of their property—a proceeding with respect to which Genet addressed to the American government several insolent dispatches; they also refused to recognize as neutral that trade between France and her West India colonies which nothing but the pressure of war had caused to be opened to other than French vessels. This was the rule of the war of 1756, so called because first brought into practice on that occasion. In the late American war, the attempted enforcement of this rule had produced the armed neutrality; but the same practice, greatly to the dissatisfaction of the American merchants, was now again revived. Still more questionable

June 8. was another earlier instruction issued to the British

cruisers, by which they were directed to seize and bring in all vessels loaded with bread-stuffs and bound for France, even though both vessel and cargo should be neutral property. This was in pursuance of a project for starving out the French Revolution, the intention being to aggravate the famine that prevailed by cutting off all foreign supplies. The ships and cargoes thus seized were not, however, subject to forfeiture. On proof that they were neutral property, the cargoes were paid for, or were released, upon bonds being given to land them in countries at peace with Great Britain. The British government attempted to justify these proceedings on the strength of certain ancient precedents, according to which provisions were contraband. But modern usage was entirely the other way. It was urged, with more plausibility, that as the greater part of these cargoes had been specially contracted for by the French government, the trade could not be regarded as a mere private speculation. It was insisted, also, that the French government had set the example by issuing a similar order a month earlier—an order which they had justified against Morris's remonstrances as a "painful necessity," to which they had been driven by their "implacable and ferocious enemies," who had avowed the intention of adding starvation to the horrors of war. There was, however, one important difference between the conduct of the two nations. Both promised to pay, but only the British did so. The French government did not even pay for the cargoes shipped on contracts entered into by their authorized agents; and the distress thus occasioned was aggravated by an embargo laid on at Bordeaux, under which many American vessels which had carried provisions to France were long detained in that harbor.

Of the conduct of the colonial prize courts of both the

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CHAPTER VI. belligerents there were very great grounds of complaint.  
Every British governor of a petty West India island was

1793. also an admiralty judge, a duty to which he was very seldom competent. These judges were generally paid by fees; and, in order to encourage the privateers and to increase their own business, many of them seem to have made it a rule to condemn every vessel brought before them, and, after condemnation, to put every obstacle in the way of appeal. The island of Bermuda soon grew particularly infamous in this respect. Even the bench of the British Court of Appeal was not at that moment adequately filled, and the agent who was presently appointed to look after the American cases found great difficulty in bringing them to a decision. Even in case of release the losses were often large, by reason of depreciation, costs, and delay. It was true that the great increase in the rates of freight growing out of the war, and the increased demand for American products, especially provisions, a great deal more than made up for all these losses. But this consideration went but very little way to stop the clamor of the individual losers.

As respected the British, there existed another and still more serious ground of complaint. The commanders of British ships of war claimed the right to make up any deficiency in their crews by pressing into their service British-born seamen found any where not within the immediate jurisdiction of some foreign state. Many British seamen were employed on board of American merchant vessels, which, under the operation of this rule, were liable to be stopped at sea and to be crippled in their crews, sometimes to the manifest danger of the vessels, by having their seamen taken from them. Nor was this all, nor the worst. To distinguish between British and American seamen was not easy; and many British

captains, eager to fill up their crews, were careless whom they impressed. Native-born Americans were not unfrequently dragged by violence from on board their own vessels, and condemned to a life of slavery as seamen in British ships of war. The resemblance between British and American sailors was unlucky in more respects than one. Citizen Deforgues, the French Minister of Foreign Affairs, in apologizing to Morris for the outrages sometimes committed by French cruisers upon American vessels, alleged the difficulty of distinguishing American allies from British enemies, and of restraining within just limits the natural indignation of the French patriots against a people having, in language and habits, so close a resemblance to the free Americans.

While these new dangers to the peace of the country were springing up on the seaboard and the ocean, affairs on the Indian frontier still continued in an unsettled state. The commissioners appointed to negotiate with the hostile Northwestern tribes, accompanied by the missionary Heckewelder and by a deputation of Quakers, as the Indians had desired, on arriving at Fort Niagara, had been kindly received by Colonel Simcoe, commander, during the Revolutionary war, of a famous partisan corps in the British army, and just appointed governor of the newly-erected province of Upper Canada. Embarking at Fort Erie, they landed presently at the entrance of the River Detroit, where they were met by a deputation from a preliminary council of the confederate Indians, then in session at the Maumee Rapids. These deputies desired to know if "their brothers the Bostonians," for so they designated the commissioners, were empowered to consent to the Ohio as a boundary. The commissioners replied that this was impossible, as settlements had been commenced north of the Ohio, which could not be aban-

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done; but they offered, if the Indians would confirm the limits established by the treaties of Forts M'Intosh and Harmer, a larger present, in money and goods, than ever had been given at any one time since the white men set foot in the country. They were authorized, in fact, to offer \$50,000 down, and, in addition, annual presents forever to the amount of \$10,000 a year. This answer of the commissioners having been reported to the Indian council, the question of accepting it was debated with a great deal of vehemence. The result was expressed in a written document sent to the commissioners, in which it was contended that the treaties of Forts M'Intosh and Harmer, having been made by a few unauthorized chiefs, could not be considered as valid. As to confirming those treaties for money, that was of no value to them, while the land would afford means of subsistence to themselves and their children. This same money might better be employed in persuading the settlers north of the Ohio to remove. Since it was refused to concede the Ohio as a boundary, the negotiation was declared to be at an end.

The commissioners, much chagrined at this abrupt termination of their mission, without their having been admitted into the presence of the Indian council, ascribed the result to British influence. Very probably the inclination of the Indians was seconded by the advice of the Canadian traders and the British agents. Simcoe, however, had expressly denied having advised the Indians not to surrender any of their lands. He had also offered to act as mediator, but this offer the instructions of the commissioners would not allow them to accept.

Pending this negotiation, Wayne's troops had remained encamped in the vicinity of Cincinnati, where they suffered not a little from an epidemic influenza. Appre-

hending that the failure of the negotiation would be followed by an immediate attack upon the frontiers, Wayne marched with his army, and, leaving garrisons behind him at the intermediate posts, established himself, with twenty-six hundred regulars, in a fortified camp at Greenville, six miles in advance of Fort Jefferson. Here he was promptly joined by a thousand Kentucky volunteers, under General Scott, raised by dint of great exertions, but who arrived too late to be of any essential aid. These volunteers were soon dismissed; but, to serve as a protection to the frontier, and to be ready for ulterior operations in the spring, the army remained encamped at Greenville during the winter. As all the supplies had to be carried some seventy miles through the woods on pack-horses, the support of the troops in that position was an expensive affair. A part of the legionary cavalry, stationed for the winter in Kentucky, was placed at the disposal of Governor Shelby, for the suppression of any attempts, should such be made, to raise men, under French commissions, for an expedition against Louisiana—a subject as to which information and orders had been sent to General Wayne and Governor St. Clair, as well as to Governor Shelby.

While a sort of truce had prevailed during the summer with the Northwestern Indians, war, meanwhile, had been again kindled on the southern frontier. Just as Governor Blount was on the point of negotiating an arrangement with the five hostile towns of the Cherokees, a militia captain, called into service for the purpose of guarding the settlements, crossed the Tennessee in defiance of orders, and killed a number of the most friendly Indians, engaged at that very moment in an interview with Blount's messengers. In consequence of this and several other like aggressions, the territory south of the

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CHAPTER VI. Ohio had become involved in a new war with the Cherokees, which Knox characterized as highly unjust, and to guard against the consequences of which, bodies of militia had to be called into service at a heavy expense. Nearly the same thing had happened in Georgia, where Governor Telfair persisted, in spite of the remonstrances of the War Department, in leading a body of militia against certain of the Creeks, alleged by him to be unfriendly—an expedition which ended in killing a number of warriors, and in the capture of several women and children belonging to a town of whose friendship there was no question. Telfair declared that the State of Georgia would recognize no treaty with the Indians, in the making of which her commissioners had not been consulted. But this did not deter Seagrove, the Indian agent, from negotiating a new arrangement with the Creeks.

While the authority of the federal executive was thus opposed or called in question in various directions, the federal judiciary was exposed to a similar danger. In consequence of the recent decision by the Supreme Court that states were liable to be sued by individuals, citizens of other states, a process of that sort had been commenced against the State of Massachusetts. As soon as the writ was served, Governor Hancock called the Legislature together. They resolved to take no notice of the suit, at the same time agreeing to a resolution in favor of amending the Constitution in that particular, which the governor was requested to transmit to the Legislatures of the other states. Hancock did not live to fulfill this request. He died shortly after, when that duty devolved on Samuel Adams, then lieutenant governor, and for the next three years governor of the state. The Legislature of Georgia, much less moderate in its method of dealing

with this matter, assumed a posture of savage defiance, too much in accordance with other incidents in her history. An act was passed subjecting to death, without benefit of clergy, any marshal or other person who should presume to serve any process issued against that state at the suit of any individual. The proposition of Massachusetts for an amendment of the Constitution was favorably responded to, and ultimately prevailed.

A decision of the Circuit Court of the United States, sitting at Richmond, had declared null and void, by virtue of the treaty of peace with Great Britain, all the numerous acts of Virginia obstructing the collection of British debts, even those which had discharged the debtor on his making certain payments into the treasury. This decision added to the excitement against what were called the usurpations of the federal judiciary, and served to brighten up the anti-Federal flame throughout the entire Union.

Such was the condition of public affairs, and such the agitated state of the public mind, when the third Congress came together. During the months of autumn, in the midst of the high political excitement of which it was the center, Philadelphia had been visited by the yellow fever in a very malignant form. So great was the panic that all business had been suspended, the city, at one time, having been almost deserted by all those able to leave it. But with the first frosts the disorder disappeared, and before the period appointed for the meeting of Congress the health of the city was re-established. To that body all eyes were now turned, and with no little interest.

Langdon of New Hampshire, Cabot and Strong of Massachusetts, Ellsworth of Connecticut, King and Burr of New York, Robert Morris of Pennsylvania, Monroe

CHAPTER VI. and John Taylor of Virginia (the latter of whom had

succeeded, during the preceding session, to the seat re-  
1793. signed by Lee), Hawkins of North Carolina, and Butler and Izard of South Carolina, continued to retain their seats in the Senate, either by holding over or by re-election. Among the new members, Livermore of New Hampshire, Vining of Delaware, and Jackson of Georgia, had already distinguished themselves as former members of the House. A sectional dispute in Pennsylvania, the western portion insisting upon its right to be represented, had kept that state with only one senator during the whole of the last Congress. That dispute had been settled, but the result was by no means agreeable to the friends of the administration. The choice had fallen on Albert Gallatin, who added to his violent opposition to the excise laws, of which the execution still continued to be effectually prevented in Western Pennsylvania, a very strong sympathy for France. An objection, started in the Pennsylvania Legislature, was brought by petition before the Senate, that Gallatin had not been sufficiently long a citizen of the United States to qualify him to sit in that body. A Swiss by birth, he had landed in America, then just entering upon early manhood, in 1780, and, after two or three years passed in Massachusetts, where he acted for a while as teacher of French at Harvard College, had settled in Western Pennsylvania, where he had become a landed proprietor, and in 1785 had taken the oath of allegiance to the state. His superior education and talents soon brought him into political notice, and he had been elected first to the Constitutional Convention, then to the Pennsylvania Assembly, and now to the United States Senate. It was contended by Gallatin and his friends that the nine years citizenship required of senators had

commenced with his arrival in Massachusetts. The CHAPTER VI. Senate decided, fourteen to twelve—a party vote—that citizenship had commenced only with his oath of allegiance to Pennsylvania, and he was in consequence deprived of his seat. Another Western man, James Ross, was presently chosen to fill the vacancy. In the permanent arrangement of political parties which was now taking place, Ross and Gallatin took different sides, and the friends of the administration gained a vote by an exchange.

The discussion as to Gallatin's right to his seat was held with open doors, the first business of the Senate to which any such publicity was allowed. A resolution was also passed, that, after the termination of the present session, and so soon as suitable galleries should be provided, those galleries, except on special occasions requiring secrecy, should remain open while the Senate was engaged in legislative business. Thus was carried the point—though the galleries do not seem to have been actually provided till the commencement of the next Congress—upon which the opposition had very strenuously insisted. The argument in favor of this measure was the due enforcement of the responsibility to the people of the Senate and its individual members, which secret debates tended to diminish; the prevention of those jealousies naturally aroused by secret legislation; and the greater confidence which publicity would inspire. It was alleged, on the other side, that senatorial responsibility was already sufficiently provided for by the regular publication of the journal with the yeas and nays; and that to admit spectators would convert the Senate into a forum for orations, addressed, not to its own members, but to the public at large. If the Senate was to be considered a mere body for the transaction of business,

CHAPTER VI. ness, there was a certain weight in this objection. The argument, however, failed altogether, looking at Congress in its true light, of a thinking as well as acting political organ of the public. So little interest, however, was evinced in the senatorial proceedings, and so seldom was that body enlivened by elaborate discussions, that, for many years to come, no reports exist of Senate debates, except upon two or three special occasions.

There appeared in the House, of former members, Ames, Goodhue, Sedgwick, Thacher, and Ward, of Massachusetts; Trumbull, Wadsworth, and Hillhouse, of Connecticut; Boudinot, Clark, and Dayton, of New Jersey; Hartley, Fitzsimmons, the two Muhlenburgs, Gregg, Scott, and Findley, of Pennsylvania; Mercer and Murray, of Maryland; Madison, Richard Bland Lee, Page, Moore, Parker, and Giles, of Virginia; Macon, of North Carolina; Smith, of South Carolina; Baldwin, of Georgia. But as the House had been largely increased by the new apportionment, a large majority were new members. Among them were Samuel Dexter, Henry Dearborn, and William Lyman from Massachusetts, the two latter voting with the opposition; Uriah Tracy, of Connecticut; John Smilie and John Wilkes Kittara, of Pennsylvania; Samuel Smith, of Maryland, a colonel in the Revolutionary army, distinguished in the defense of Mud Island, in the Delaware, now an enterprising merchant and influential citizen of Baltimore, destined to a long political life; John Nicholas, of Virginia; Andrew Pickens, of South Carolina, an active partisan officer of militia during the Revolution. New York had an entirely new delegation, none of whom, however, were greatly distinguished by talents or influence. The stanch friends of the administration voted for Sedgwick as speaker; the opposition of all sorts, anti-Feder-

alists, Republicans, and Democrats, united on Frederic  
 A. Muhlenburg, who was chosen by a majority of ten  
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The president's speech, as to the contents of which Dec. 3.  
 there had been a good deal of preliminary discussion in  
 the cabinet, designated the proclamation of neutrality as  
 a "declaration of the existing legal state of things," in-  
 tended to admonish the citizens of the consequences of a  
 contraband trade or of hostile acts to any of the parties  
 at war; and by declaring a disposition for peace, to quiet  
 any suspicions on the part of the belligerents, and to ob-  
 tain an easier admission to the immunities belonging to a  
 neutral position. The rules which had been adopted for  
 enforcing the neutrality of the United States were sub-  
 mitted to Congress, and legislation in furtherance of that  
 end was strongly urged.

But while fulfilling all duties toward other nations, it  
 was necessary, the president thought, to place ourselves  
 in a condition of complete defense, so as to be able to  
 exact from them a fulfillment of their duties toward us.  
 "There is a rank due to the United States among na-  
 tions, which will be withheld, if not absolutely lost, by  
 a reputation of weakness. If we desire to avoid insult,  
 we must be able to repel it; if we desire peace, one of  
 the most powerful instruments of our rising prosperity,  
 it must be known that we are at all times ready for  
 war." After alluding to the extremely insufficient or-  
 ganization of the militia under the existing laws, the  
 question was suggested, "Whether a material feature in  
 an improvement of it ought not to be to afford an oppor-  
 tunity for the study of those branches of the military art  
 which can scarcely ever be obtained by practice alone?"  
 The president had wished to recommend the fortification  
 of the harbors and the establishment of a military school;



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but the message was generalized as above, in order to meet the cavils of Jefferson, who thought the military school unconstitutional, and the fortifications inexpedient.

After a summary of the state of Indian affairs, the necessity was urged, so soon as the present war should be terminated, of rendering tranquillity permanent by creating ties of interest, especially by the regular supply of the Indians with goods through a fair and just traffic.

Dec. 5 Two days after the delivery of this speech, a written message was sent to both houses covering the correspondence with Genet, including the complaints against him, and the application for his recall; also Jefferson's former correspondence with the British minister on the non-fulfillment of the treaty of peace, and the mutual claims of the two nations under it; as well as the recent correspondence, both at Philadelphia and London, on the subject of the British order for the stoppage of vessels laden with provisions. The message, as originally drafted by Jefferson, contained a contrast between the conduct of France and England, especially in relation to commercial facilities, highly favorable to the former. This had been objected to by Hamilton, who considered the disposition of the people toward France a serious calamity, and that the executive ought not, by echoing her praises, to nourish that disposition in the people. In his opinion, the balance of commercial favors was decidedly with the British; the commercial offers made by France were the offspring of the moment, growing out of circumstances that could not last. To evade Hamilton's objections, Jefferson consented to some modifications of the message. Hamilton then insisted that the papers relating to the non-execution of the treaty of peace and to the stopping of the corn ships ought not to be communicated, unless in a secret message, as the mat-

ters therein discussed were still unsettled, and the tendency of the communication was to inflame the public mind against Great Britain. Jefferson was a good deal alarmed at this threatened suppression of his diplomatic labors; but Washington decided that all the papers should be communicated without any restriction of secrecy, even those respecting the corn ships, which all the cabinet, except Jefferson, had advised to withhold. CHAPTER VI.

The publication of these documents enabled Jefferson to retire from office, which he did at the close of the year, with a good deal of eclat. In the correspondence with Genet, he appeared as the vigorous defender of the administration against the insolence of that ambassador. The necessity of submitting these documents to Hamilton's eye had probably infused more spirit into them than they might otherwise have contained, or than suited precisely with the opinions which Jefferson had supported in the cabinet. At the same time, great care had been taken to avoid saying any thing that might give the least offense to those partisans of France able to distinguish between the French republic and the French minister.

The correspondence with Hammond on the subject of the debts due to the British merchants was of a character to find great favor at the South, especially among the debtors. Not content with setting up that the British had themselves been guilty of the first breaches of the treaty, by carrying away negroes, the property of American citizens, and by refusing to deliver up the Western posts, Jefferson was bold enough to maintain, on the strength of certain certificates from lawyers and others, swift witnesses on behalf of the honor of their respective states, that no obstructions did, in fact, exist to the collection of British debts, that British merchants were exposed to no more legal obstacles than any body

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else, and that their failure to recover their debts by course  
of law must be ascribed either to the insolvency of the  
1793. debtors, or to the preference of the creditors to look elsewhere for payment. This document had remained unanswered for two years, though the propriety of a rejoinder had once or twice been hinted to Hammond, who had sent it home for instructions. Jefferson seemed to think it unanswerable. The British ministry thought, perhaps, that it exhibited too little candor to invite to a continuation of the correspondence; or they might have been waiting the operation of a suggestion contained in it, that, if the alleged obstacles did exist, they would be of no avail in the federal courts.

Dec 16. Still another document from the pen of Jefferson was given to Congress and the public just at the moment of his resignation—a report prepared in obedience to an old order of the House of Representatives on the privileges and restrictions of the commerce of the United States with foreign countries—strongly tending to promote the opinion, which at that moment hardly needed any stimulus, that the United States were hardly dealt with by Great Britain. It professed to represent things as they stood previous to the breaking out of the late war in Europe, and the great object of it was to show, contrary to the prevailing opinion among merchants, that the regulations of France, even prior to her recent relaxations, were much more favorable to American commerce than those of England. By way of compelling Great Britain to put us on a more equal footing, since she declined to do so by treaty arrangements, it was proposed to adopt, as against her, a system of discriminating duties—the same policy, in fact, which Madison had insisted upon so strenuously in the first Congress, but which Jefferson now proposed in a more systematic and extended form.

In quitting the cabinet, Jefferson had the satisfaction to carry with him Washington's testimonial of continued belief in his integrity, almost extorted by a somewhat bold assertion, in Jefferson's leave-taking letter, of a "thorough disdain of all means which were not as open and honorable as their object was pure." He retired to his patrimonial estate of Monticello, as he said, to withdraw from politics after twenty-four years of public service, and to devote himself to the pleasures of rural life; but in fact, like the spider, drawn into a corner, yet still sensitively feeling every thread of his wide-extended net, to play, no less assiduously at Monticello than he had done at Philadelphia, the part of a watchful, zealous, untiring party leader. According to Jefferson's theory of politics, to aspire to office was a breach of that equality without which liberty could not exist. What right had any man to desire to be elevated over the heads of his countrymen? Ambition was the political sin which he charged upon Adams and upon Hamilton. Could the idea be tolerated that the same evil disposition lurked even in his pure soul? With most men, especially those of an enthusiastic turn of mind, it is still easier to deceive themselves than to deceive others; and while, in his nominal retirement, he was exercising all the prerogatives of the acknowledged head of a party, issuing his mandates in every direction, couched, indeed, under the gentler form of suggestions and advice, Jefferson seems to have actually persuaded himself of what he so constantly repeated to others, that he was altogether engrossed with his lucerne, potatoes, and tobacco, and no more interested in politics than any other planter. The great instrument of influence which he employed was a constant correspondence with his adherents in different parts of the country, every letter beginning with protes-

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1793 tations of his disgust at politics and total forgetfulness of public affairs, but as constantly ending in hints, suggestions, and recommendations as to the best method of carrying on the campaign. He had retired from Philadelphia with feelings excited to the highest degree against the political opponents whom he left behind. By his patronage of Freneau's Gazette, universally regarded as his organ, and which had scattered abroad, with such reckless profusion, charges of political and pecuniary corruption and anti-republican tendencies, he had made himself an object of peculiar hatred to that very circle in which his position, no less than his refined tastes and fondness for society, had called upon him to move. They had looked upon him as a snake in the grass; and that love of approbation, so marked a feature of his character, had made him conscious of their hatred, as he himself energetically expressed it, even in those moments of conviviality when the heart wishes most to open itself to the offices of friendship and confidence. Every cabinet consultation had been a torment, obliged as he had been "to descend daily into the arena like a gladiator, to suffer martyrdom in every conflict." In his attempts to destroy Washington's confidence in Hamilton he had been most signally defeated; and, considering the multiplied embarrassments and mortifications to which he had exposed himself, in his double character of cabinet minister and head of the opposition, there is no need to wonder at the exceedingly bitter and aggravated feelings with which he always looked back to that part of his career. Freneau's Gazette had expired before his resignation. It stopped, like most of the other Philadelphia papers, during the height of the yellow fever, and, though promises were made of its reappearance, it never revived again. But in Bache's Advertiser, soon known as the Aurora,

the party continued to find an organ not less uncompromising and still more virulent. CHAPTER VI

With the retirement of Jefferson, Washington seems 1793 to have abandoned the plausible but not very practicable idea of a balance of parties in the cabinet. He appointed Randolph to be Secretary of State, of whom Jefferson complained, in his private letters to Madison, that he gave his principles to one side and his practice to the other—the shells to him and the oyster to Hamilton. The office of Attorney General, vacated by Randolph, was given to William Bradford, of Pennsylvania, a rising lawyer, whose premature death soon disappointed the hopes that had been formed of his ultimate eminence.

Among other communications made to Congress was one respecting new dangers to commerce from the Algerine cruisers. No treaty with that piratical community had as yet been formed. Prior to the adoption of the Constitution, two American vessels had fallen into their hands, and the crews, to the number of twenty-one persons, had been held, as their custom was, for ransom. The dey demanded \$60,000 ; but as this rate of redemption might serve as precedent for the future, the American government had been unwilling to pay it. Attempts had been made to procure the release of the captives through the agency of a French religious order devoted to that humane service ; but this scheme had been defeated by the dissolution of the monastic orders consequent upon the French Revolution.

The Senate having been consulted on the subject, had 1792 agreed to a payment to the extent of \$40,000 for the thirteen surviving captives. They had agreed, also, to the purchase of a peace of the Algerines, could it be procured for \$25,000 down, and the like sum in annual payment—the inducement being the trade of the Medi- MAY 8.

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1793 Mediterranean, a profitable branch of traffic before the Revolution, but from which American vessels were now excluded through fear of these Algerine pirates.

John Paul Jones, the famous naval adventurer, then at Paris, and in a state of destitution, had been appointed consul to Algiers, to negotiate a treaty; but he died before setting out on his mission. Barclay, the late consul at Paris, who had negotiated the treaty with Morocco, was then appointed; but he also died; when the business was committed to Humphreys, the minister to Portugal. In consequence of difficulties between the Portuguese and the Algerines, a blockade of the Straits of Gibraltar had been maintained of late by a Portuguese fleet, and the Algerine cruisers had thus been kept within the Mediterranean. But before Humphreys had time to act under his commission, a peace had been made between Portugal and Algiers; and, on the withdrawal of the blockading fleet, eight Algerine cruisers had issued into the Atlantic, to the great danger of American vessels.

Dec 13. This state of affairs, communicated to the House in a confidential message, was considered with closed doors, not without some opposition from Nicholas and others, who denied that the House ought to have any secrets. The great questions were whether a squadron should be fitted out and sent to the Mediterranean, to keep the Algerines, with their brother pirates of Tunis and Tripoli, in awe, or whether a peace should be purchased, and, if so, how much money the House would appropriate for that purpose. It was finally agreed to adopt both measures.

1794. —to vote money to purchase a treaty, and also to provide a naval force. A committee appointed to report the amount of force required, by an amendment, carried forty-six to forty-four, was authorized to report, also, the

Jan. 2

ways and means for its support. Hitherto all questions of that sort had been referred to the Secretary of the <sup>CHAPTER VI.</sup> Treasury. This was the first committee of ways and means ever appointed; and it indicated, like the result of the election of speaker, that the opposition had a majority in the House. The defense of the ports and harbors of the United States was soon afterward referred to the same committee.

No sooner had the Algerine business been disposed of, than Madison, on behalf of the opposition, formally opened the political campaign. The project of upsetting or modifying the funding system appears to have been quite dropped, and the national antipathy to Great Britain to have been substituted as the basis of party rally. Indeed, in the course of the Algerine debate, not a little excitement had prevailed against Great Britain, on the suggestion that she had brought about peace between Algiers and Portugal for the very purpose of letting loose the Algerine cruisers against American commerce. Madison, in a formal speech, introduced a series of resolutions, based on Jefferson's commercial report, proposing, in addition to discriminating tonnage duties on the vessels of nations not in alliance with us, special duties also on manufactures of leather, metals, cotton, wool, linen, and silk, the products of such nations; and, with reference to the West India trade, additional duties on all importations by foreign vessels from ports to which American vessels were not admitted. Jan. 3

At the urgent request of the commercial representatives, the consideration of these resolutions was postponed for ten days, when Smith, of South Carolina, led off against them in Committee of the Whole. He proposed to discuss the question in a purely commercial point of view, without reference to the alleged miscon-



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duct of Great Britain, as it respected the Algerines, the Indians, or the Western posts. This speech, which was 1794. afterward published in a pamphlet form, contained a very searching criticism of the statements and reasoning of Jefferson's report, going to show that, whether contrasted with the commercial policy pursued by England toward other nations, or with the policy adopted by other nations, particularly France, toward the United States, there was nothing in the existing state of commercial relations with Great Britain to afford any special ground of complaint.

It had been represented in Jefferson's report, as a proof of the disadvantageous character of our commerce with Great Britain, that while not less than three fourths of our entire imports came from that country, she took in return less than half of our exports, and a great part of these not for her own consumption, but for re-exportation to the Continent, a trade which we might carry on more beneficially for ourselves. To this Smith replied that the purchase from Great Britain of so large a portion of our imports was evidence in itself that we could buy of her more advantageously than elsewhere. The secret was, that she alone was able and willing to give the credit which the circumstances of the United States required. As to consumption of our products, deducting all her re-exports, she was still a better customer than France. Nor was her trade of re-exportation necessarily a disadvantage to us. In the uncertainty of foreign markets, it was a great advantage to have a customer always ready to take what we had, and to hold it till vent could be found at a remunerating price.

"I am at no loss," wrote Jefferson to Madison, "to ascribe Smith's speech to its true father. Every tittle of it is Hamilton's, except the introduction. There is

scarcely any thing in it which I have not heard from him in our various private though official discussions.”

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Smith was followed by Madison in a very labored reply, which contained, however, little more than a repetition of his arguments urged in the first Congress, and stated in a former chapter. He insisted now, as then, that the adoption of the policy which he recommended would not lead to retaliation on the part of Great Britain. The indulgences which she allowed to our trade were entirely founded on views of her own interest. Her object was to find the largest vent for her manufactures; and, however we might impede their introduction, she was not likely to do any thing to add to that impediment. The struggle might call for some self-denial, but the advantages were all on our side. We imported luxuries; our exports consisted of necessities, without which the English manufactures could not be carried on. The contest would be certain to end in a triumph on our part, by compelling England to agree to an entire reciprocity.

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While disclaiming any intention to make this debate any thing but a mere commercial discussion, Madison took care, however, to stimulate the feeling against Great Britain by an artful recapitulation of all the existing grounds of complaint. “Ill will and jealousy were, and always had been, the predominant features in the conduct of Great Britain toward America. She had been encouraged by the idea of impotence in our government and want of union; and the fate of the present resolutions would show whether we were in fact so feeble, or the interests of the states so discordant as she supposed. To reject the resolutions would be to rivet the fetters of American commerce.”

Forest of Maryland could not agree that in the con-

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CHAPTER test of commercial regulations we should have the ad-  
 VL vantage. The trade of Great Britain to America con-  
 1794. stituted a sixth of her entire commerce; our trade to  
 Great Britain was more than one half of ours. If a  
 breach took place, who would suffer most, she by the in-  
 terruption of a sixth of her trade, with the means of get-  
 ting most of the articles supplied by us on as good terms  
 from other nations, with great internal sources of rev-  
 enue and a people used to taxes, or we, with an inter-  
 ruption of half our trade, with few internal resources and  
 citizens little accustomed to be taxed? The fourth of  
 our revenue was supplied by imposts on British goods.  
 How was that to be made up? The recollection of 1774  
 and 1775 might serve to show what little effect we could  
 produce on Great Britain by the non-consumption of her  
 manufactures. "I am not a stock-holder; I am not a  
 bank-holder!" exclaimed Forest; "I am too poor to be  
 either, and therefore can have no separate interest in  
 view; and where I am known I shall not be charged with  
 partiality to Great Britain. But I hope I am free from  
 such unwarrantable prejudice as to lead me into meas-  
 ures to the injury of my country."

The same argument, with additional points and illus-  
 trations, was pressed with great force by Smith of Mary-  
 land, afterward for many years a very strenuous advo-  
 cate of the party of Jefferson and Madison, but who held  
 during the present Congress a somewhat equivocal posi-  
 tion. Spain, Portugal, Denmark, Russia, and the Hanse  
 Towns were in the same predicament with Great Britain.  
 They had no treaties with us, yet they were excellent  
 customers, and was their trade to be burdened with extra  
 duties for the benefit of France, who did not scruple to  
 violate the most beneficial article in her treaty with us,  
 the provision that free ships should make free goods?

He trusted no one would tax him with prejudice in favor of Great Britain. He had suffered severely by recent British depredations. He had fought against Great Britain, and, should duty call him, would do so again. But the question now was, not how we might most injure Great Britain, but how we might best protect ourselves.

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Findley insisted that the credit granted by British merchants was no benefit, but an injury, leading to a system of indebtedness running through all society, and very dangerous from the British influence thus introduced. Those merchants trading on their own capital were in favor of the resolutions; the only opposers were those trading on British capital.

Nicholas insisted that the circumstances of America since its settlement had placed her trade entirely in the hands of Great Britain, leaving the consumer no opportunity of choice. These artificial causes must be counteracted by artificial means. He was for building up a French market for American products, even at the risk of some immediate loss. By giving to French manufactures a preference in our markets, we might draw off the French agriculturists into workshops, and the consequent diminution of French agricultural produce would open a market for ours. As to British credits, it was a great object to break them off. The habit of running in debt had reached an intolerable pitch throughout the South. It had been hoped, in vain, that some check would be found in the provisions of the Federal Constitution guarding the sanctity of contracts. Nothing could work a cure except a radical change of commercial system—a cutting off the trade with Great Britain like that to which these resolutions tended.

Goodhue remarked that, if there was no friendship in

CHAPTER VI trade, as some of the speakers on the other side had suggested, there ought also to be no hatred in trade. Trade

1794 ought not to be made an instrument for the gratification of political antipathies. As, in the present circumstances of Europe, Great Britain alone could supply the manufactures we needed, to increase the duties upon them would not affect her, but us, by raising the price to the consumers.

Clark scouted this appeal to mercantile considerations. Merchants might calculate in their counting-houses, a Legislature ought to act on political grounds. We had many wrongs to complain of. The English had violated the treaty of peace, first, by carrying off negroes, and then by retaining the Western posts. They had set the savages on our backs, and just now let the Algerines loose upon us. Shall we sit still and bear all this? A non-importation agreement, as he remembered, had made Great Britain repeal the Stamp Act. During that agreement we did not perish with cold. We found means to clothe ourselves then, and we should do so now. We carried our point then, and we should now be much more powerful at the same weapons. Many British manufacturers were already starving for want of employment. By adopting the policy proposed, we should add greatly to their distress, should soon bring the government to their senses, and make them glad to enter into a commercial treaty.

Smith remarked that perhaps he was one of those whom it was intended to stigmatize as merchants trading on British capital, and therefore opposed to these resolutions. Findley disclaimed any such allusion; upon which Smith added that, although not now trading on British capital, that charge might once have been alleged against him with truth. He had sacrificed a fortune in

the service of his country while struggling for independence. When that boon was obtained, he had nothing left but his industry and commercial enterprise. These, 1794. assisted by that British credit so much deprecated, had enabled him to acquire another fortune, and to be in a way again to serve his country. He was not surprised that some merchants advocated the resolutions. Should our credit in England be seriously affected, trade could only be carried on by those possessed of great capitals. Young men with small means would no longer be able to embark in commerce; a complete commercial aristocracy would be established, and commercial profits would be doubled. It was no hardship to the young trader to make use of British capital at an interest of five per cent., when he could borrow the money nowhere else, and must remain idle without it.

Lee made an elaborate apology for presuming to differ on the subject of these resolutions from his colleague (Madison), to whose agency in the formation and adoption of the Federal Constitution he paid some very high compliments. The idea that, unless the policy of these resolutions was adopted, Great Britain would obtain a predominating influence in our politics, seemed to him quite overstrained. At the commencement of our struggle with Great Britain, she had all the commercial influence over us which the monopoly of our trade could give. That influence neither damped our courage nor checked our unanimity. Why suppose less virtue in our citizens, now that we were free under a government of our own, than then, when we were subject to a colonial dependence?

These resolutions ought to pass, it had been said, as an expression of our gratitude for services formerly rendered to us by the French. Generosity and gratitude were attributes belonging more to heaven than to earth,

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rarely seen among individual men, and still more rarely among nations. It had been acknowledged in the French

1794. Convention that the assistance rendered to us had been not so much for our sakes as to weaken a dangerous and powerful rival. If there existed on the part of France a friendly disposition toward us—and, as the French said so, he was not disposed to deny it—it might be taken advantage of, without the necessity of any legislative action, by the negotiation of a new treaty of commerce; especially as that now in existence was violated by the French government—under imperious circumstances, he was ready to admit, sufficient, in the eyes of every American, to serve as an excuse. The alleged similarity of principles and institutions between the French republic and ourselves, so much relied upon by some gentlemen, he did not himself perceive. The French republic was one and indivisible; ours consisted of sovereign states, having extensive and important local jurisdictions, and a diversity of laws and interests. Federalism was treason in France; consolidation was treason here. The French executive was plural, and their Legislature a single body—arrangements counter to the practice of almost all the states, and to the provisions of the Federal Constitution. Was every part of the United States in a condition to extend the idea of equality to the same length it had been carried in France? Might not the conflagrations, the bloody scenes of St. Domingo, be exhibited, in that case, on our own peaceful shores?

The French were a brave, generous, enlightened nation. They had performed the most brilliant achievements recorded in history. They had broken the chains of despotism, had obliterated hierarchical and feudal tyranny, and had exercised the power belonging to all nations of establishing a government of their own. They de-

served to be happy under it, and he prayed God they might be. But if any parallel was to be drawn between our government and that of any nation of Europe, it was the British Constitution which presented the most numerous points of resemblance. Their executive was single; their Legislature was divided into two houses. Such was the general outline of our governments, only we had improved on the British model by rendering our public functionaries more responsible to the people. We had abolished feudal rights and perpetuities; the only remnant of that system to be found among us was that, in some states (the allusion was to Virginia), lands were unjustly exempted from the payment of debts. That stain on American principles he hoped would soon be forever removed.

This assimilation of the American governments to that of Great Britain was very offensive to some members of the House. Smilie, and Lee's colleague, Moore, exclaimed loudly against it. "It is enough for us," said Moore, "that the French Constitution has liberty for its basis. From such a source we have a right to expect justice and reciprocity of commerce."

Dexter thought it very strange, if the tendency of these resolutions actually was, as their advocates maintained, to relieve American commerce from unreasonable restrictions and to encourage American manufactures, that the members from the Eastern States, which were particularly interested in navigation and manufactures, and those members of the best mercantile information, including such as were personally engaged in commerce, should be almost unanimously against them. And, in fact, their operation seemed to be, by compelling us to purchase at a dearer market, to tax us for the benefit of a foreign nation. Our trade was, no doubt, exposed to

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some obstructions; but most of them grew from our youth as a nation, or from adventitious circumstances.

1794. It was in vain to pant for premature manhood, or to expect to control the commercial regulations of all the world. The body politic, like the natural body, often suffered more from the bold ignorance of quacks, or from the ingenious but false hypotheses of the learned, than from the malady complained of. There was an effort of nature to relieve disease often more efficacious than any medicine. To commence a commercial warfare at the hazard of our trade, perhaps of our peace, mainly for the benefit of strangers, was, in his view, to betray the interests of the country.

“Notwithstanding our resentments, let us be just. Great Britain makes many important discriminations in her European dominions in favor of our produce which we do not reciprocate. She makes no discrimination against us except to favor her own navigation and produce, and we have already done the same by her. Her standing laws, excluding our ships from her islands in the West Indies, are the most exceptionable part of her policy. But she admits our produce there, and this forms a valuable part of our exports; while Spain and Portugal not only exclude our ships from their colonies, but our produce also. And yet it is sought by the advocates of these resolutions to shield Spain and Portugal against their operation.

“It is said that, by depriving the British of the necessities of life and of the raw materials for manufactures, we shall compel them to treat us more equitably. But it is already a ground of complaint against them that they refuse to take our provisions except in times of scarcity; and as neither of these resolutions ordains a famine in Great Britain, the prospect of starving her into

a treaty does not seem very promising. As to raw materials, we know not how much other nations might supply. When a new demand arises, necessity opens new resources, and in this way we might create formidable and permanent rivals. Can we distress Great Britain by refusing to take her manufactures? From statements made by the mover of the resolutions, it appears that we take only four per cent. on the total amount of British manufactures. The most they could lose, then, would be the profit on this four per cent. But they would not lose even that. The withdrawal of manufactures from other countries to supply us would make an opening, and British manufactures would fill up the gap. Nay, we ourselves should take British manufactures at the hand of other nations, and at an enhanced price, while our bulky commodities, not able to bear the expenses of a double voyage, and being cut off from their accustomed market, would perish on our hands.

“We are told that we ought to resent the injuries and insults of Great Britain—but is this the way? If the question is as to retaliating by hostilities, let us have it freely and boldly stated. Away with all mean disguises! Surely we are not afraid to look that question in the face; nor do we wish to conceal from others what we are about. But, before taking such a step, let us consider the consequences; how much we have to lose, and how little to gain. Britain is aided by powerful allies, who hate and despise our political system. Our former ally, instead of assisting us, needs assistance herself. The commerce of Great Britain is already interrupted by war, and we could add little to her embarrassments, while our flourishing commerce must be sacrificed, as we have no fleet to protect it. As to revenue, Britain has all the advantages without the evils of bank-

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ruptcy ; her national debt will never be paid, but her creditors are both able and willing to support her ; while

1794. to add even a few millions to our debt would alarm both us and our constituents. British soldiers are inured to foreign warfare ; our independent yeomen are invincible in battle for their rights, their habitations, their families ; the world can not subjugate them ; but they harbor no wish for conquest or plunder. If we commence hostilities, we must persevere through every extremity of suffering, or meanly prostrate ourselves at the feet of Britain, to bear whatever she may impose.

“ When the welfare and dignity of our country require energy, I shall not be found an advocate of a pusillanimous system. No man is prouder of his country than I am. I agonize under the indignities she has suffered ; but to repress resentment is sometimes true courage. Untimely passion, which may betray the dignity and the interests of the community, is perfidious. Our growth is so rapid that a few years of peace will avenge us. I speak thus not because I am a friend of Great Britain, but because a sense of duty compels me. If I have prejudices, they are not in favor of England, but of the people with whom she is at war. I can never forget that probably by them we exist as a nation. France is the place of my fathers’ sepulchers. No man more ardently wishes liberty and happiness to the French nation. No man, it is but just to add, more sincerely laments that spasm of patriotism which now convulses the body politic of France, and greatly hazards the cause of freedom. But we ought not to suffer a torrent of feeling to sweep us from our post. We are neither Britons nor Frenchmen, but Americans, the representatives of Americans, the guardians of their interests ; and these forbid us to adopt the policy proposed.”

Giles admitted "that propositions going to so fundamental a change of policy ought not to be adopted without a clear case in their favor. This necessity was increased by the opposition of the merchants, whose intelligence and patriotism he was not disposed to deny. Yet the known attachment of mercantile men to routine, and their disposition to magnify the hazard of every change, were reasons for not taking their opinions as conclusive, while the opposition of the British mercantile interest ought to weigh as much in favor of the resolutions as the opposition of the American merchants did against them." CHAPTER  
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"Apart from political considerations, three fourths of the impression on his mind in favor of the resolutions would be lost. Yet even on commercial grounds alone there was case enough in their favor. The statements and calculations going to show that our trade with Great Britain stood on ground as favorable as that with any other nation, were based on the state of things before the breaking out of the present war; whereas the aggressions of Great Britain since that period ought to be taken into account. The crusty old maxim of no friendship in trade surely could not be extended to mean that it is better to trade with an enemy than with a friend. The friendship of a great nation was intrinsically a valuable thing, and, when founded upon interest, it became an important item of calculation. Such was the case as between France and the United States. It was for the interest of France that the United States should retain a republican form of government. It was for the interest of the United States, perhaps their salvation, that France should preserve a republican form of government. Under these circumstances, the favorable opinion of France toward the United States was a thing of mate-

CHAPTER VI. rial value, which ought to be taken into account even under the rigid maxim laid down on the other side. As 1794. to the alleged similarity between the governments of Great Britain and America, it was one of form merely. The French and American governments agreed in the fundamental principles of the consent of the people and equality of rights; while the fundamental principle of the British government was coercion, and its object a monopoly of rights.

“He denied any weight in the argument that Great Britain treated us as well as she did other nations. It was a poor consolation that, while the United States are held in commercial bondage, all other nations, one excepted, are in the same predicament. If Great Britain had assumed the position of dominant nation in the commercial world, she was indebted for it less to her own energy than to the acquiescence of other nations. The United States ought not to wait for an example; they should proceed at once to convince the world that they understand their rights, and have vigor and ability to enforce them.

“Restrictions and commercial treaties, though bad in themselves, became necessary as means of defense. If a nation allowed its trade to be monopolized by another, that other would insensibly gain an irresistible internal influence. Great Britain had monopolized half our trade; she had a mercantile capital operating from one end of the Union to the other, and agents employed in its management. Intimate connections were formed between them and our own citizens. Thus there was, he inclined to think, an unperceived foreign influence operating at this very moment on our councils.

“Whether or not our trade with Great Britain, so far as related to the carriage of goods, stood on fair and

equal ground, is to be tested, not so much by its actual distribution as by the relative need of each country for the productions of the other. We supply necessities, she supplies luxuries; she needs our trade more than we need hers; she is a dependent customer, and ought, therefore, to allow us the larger share, or at least an equal share, in carrying it on; and, since she is not so inclined, this same circumstance that we supply her with necessities gives us the means of compelling her to do so.

“Tottering under the weight of a king, a nobility, a priesthood, armies, navies, debts, all the complicated machinery of oppression, with so many unproductive hands as to be unable to feed her own inhabitants, engaged in a foreign war, and with taxation carried to the last pitch of financial contrivance, Great Britain is no match for the United States, in the flower of youth, their population and wealth increasing. An unfortunate imitative policy had indeed prevailed in the erection of a national debt, in adopting all the paper machinery for increasing the number of unproductive, and lessening the number of productive hands, in the establishment of an army, and, by a vote of the present session, in preparations for a navy. Yet the operation of natural causes in some degree counterbalanced these mistakes, so as still to give to the United States a great superiority as compared with Great Britain.

“It is true that our trade with Great Britain is one half our whole commerce, while the trade of Great Britain with us is but one sixth of hers. But, then, this sixth is exceedingly profitable, and quite essential to her other trade, whereas half our trade with her is a losing business. As to the threatened loss of revenue, by ceasing to consume foreign luxuries, we should be the better able to pay taxes. The particular mode in which the rev-

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1794. itiveness about revenue? Why this doubt and hesitation? Such was not the language of America at the time of the non-importation agreement; such was not her language when independence was declared! Whence this change of American sentiment? Is America less able now than she was then? Is she less prepared for a national trial? One great change had indeed taken place in her political situation. America has now a funded debt; she had none at those glorious epochs. May not the origin of this change of sentiment be looked for in change of position? May it not be looked for in the imitative, sympathetic organization of our funding system; in the indiscriminate participation of citizens and foreigners in the emoluments of that system; in the wishes of some to assimilate the government of the United States to that of Great Britain, or, at least, their wishes for a more intimate connection with that nation?

"If these causes exist, it is not difficult to find the sources of the national debility. The interests of the few who receive the public contributions are more respected than the interests of the great body of society who pay them. Instead of legislating for millions, the government is legislating for a few thousands, the sacredness of whose claims on the public treasury is the chief obstacle to a great national exertion.

"We have been admonished to banish feeling and to take counsel of judgment, but I doubt the truth of a philosophy which advises us to banish an essential ingredient of human nature. Feeling and judgment ought to perform their respective offices: feeling should stimulate our actions; judgment should direct the wisest means. The United States have been injured and insulted. Instead of patience and forbearance, caution

itself ought to prescribe boldness, enterprise, energy, and firmness. Great Britain calculates on her influence among us, and a want of concert in our councils. Now is the time to convince the world that injury from abroad produces union at home."

The speeches already given—particularly that of Giles, an excellent specimen of the sophistry in which he excelled—will serve to show the views taken on either side, and the tone and temper in which they were urged; and they merit the greater attention, as exhibiting the real character of the political divisions which prevailed in the United States for twenty years to come. The debate was continued with great energy, but with the suggestion of very little that was new, by Hartley, Tracy, Boudinot, Dayton, Hillhouse, Ames, Murray, Smith of Maryland, and Smith of South Carolina, against the resolutions, and by Nicholas and Madison for them. The question being taken on the first resolution—that asserting the general policy of discriminating duties on the products of nations not in treaty with us—it was carried in committee, fifty-one to forty-six.

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The second resolution coming up—that enumerating the specific duties to be imposed—Nicholas offered an amendment, by which they were made to apply to Great Britain alone. He scouted the idea of looking at these resolutions as a regulation of commerce. He wished to make them in form what they were intended to be in fact, a hostile movement against Great Britain. Of the debate on this amendment no report is preserved. The friends of the resolutions, doubtful, perhaps, of this new ground, voted fifty-one to forty-seven to postpone the subject for a month, to wait, as they alleged, the result of the pending negotiations as to the recent British interferences with our commerce.

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So far as respects the commercial aspect of these famous resolutions, the policy proposed by them, in their domestic bearing, was very far from being original either with Jefferson or Madison. It was, in fact, the revival of an old Virginian notion, which may be traced back to very early colonial times. For more than a century before the Revolution, the exclusive control of the commerce of Virginia by English traders, the exclusive use of English manufactures, and the exclusive employment of English ships, had excited the jealousy of the colonial Legislature, and had led to a long series of acts for encouraging the building of towns, and the promotion of domestic commerce, navigation, and manufactures. Among the other expedients employed was this very levying of duties on British goods imported, and discriminating tonnage duties in favor of vessels built in Virginia. Many of these acts had never gone into effect, the British merchants having procured their disallowance by the crown. But other and more potent causes existed in the internal social system of Virginia for the failure of all these attempts to foster domestic interests. In New England and the other northern colonies a domestic commerce and navigation had sprung into existence, in spite of English competition and English legislation; and it was to the benefit of these states, and not to that of Virginia, as subsequent experience has abundantly proved, that any system of exclusion brought to bear on Great Britain was sure to redound.

Of the efficacy of these commercial restrictions as a means of coercing Great Britain, Madison and his party entertained very extravagant ideas, of which they had afterward ample opportunities to be cured. What, indeed, could be more extravagant than the statement that Great Britain imported necessities from us, and we only

luxuries from her, repeated over and over again by the representatives of a state whose chief export was tobacco, and whose imports were principally clothing, tools, and other manufactured articles of daily use and necessity? In all these commercial struggles, nothing is more certain than that the richest party can endure the longest, and is sure to triumph in the end.

It was hardly, however, with any view to commerce that these resolutions had been brought forward at this moment. They must be regarded rather as a party expedient for stimulating the sentiment of hostility to Great Britain introduced by way of counterbalance to the general rally in favor of the government, as against the insolence of Genet; which rally, if not counteracted, might give a decided predominance to those who favored a strict neutrality, thus strengthening the hands of Hamilton and the Federalists.

Pending this debate, the president gave information to Congress that Genet's recall had been conceded. His friends, the Girondins, accused of conspiracy against the unity and indivisibility of the republic, had fallen from power. The control of French affairs had passed into the hands of the Jacobins, headed by Danton and Robespierre. These new administrators of the French government made no difficulty in recalling Genet; but they took advantage of this occasion to ask, in their turn, the recall of Morris, altogether too moderate in his political views, and quite too little of an enthusiast to find favor even with the Girondins, and still less so with the yet more violent party on whom the administration of affairs had now devolved.

The news from France was indeed of a kind to excite painful doubts in the minds of her more thoughtful sympathizers. Hardly had the Republican Constitution

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— been agreed to before it had been suspended, and a des-  
potic power assumed by the Convention—a power soon  
1794. engrossed by two committees of that body. The leading  
Girondins, expelled from their seats in the Legislature,  
had been sent, on vague charges, to prison or the scaffold.  
The south and west of France had become the scene of a  
terrible civil war. The republic had experienced great  
reverses on the frontiers. The Reign of Terror had com-  
menced. It was, perhaps, the desire to wait further in-  
formation from Europe that had occasioned the debate on  
Madison's resolutions to be postponed.

Genet did not choose to risk the danger of returning  
to France. He had married a daughter of Governor  
Clinton, of New York, and he remained thenceforth a  
resident of that state; but from the moment of ceasing  
to be French minister, he sunk at once into total ob-  
scurity. His successor, M. Fauchet, though he contin-  
ued the old secretaries, and succeeded to all of Genet's  
intimacies, conducted with a good deal more of modera-  
tion. Though he alone had the rank of minister, he had,  
in fact, two colleagues, one of whom was French consul  
general, the other consul for Philadelphia. But, besides  
the official correspondence which passed under their eye,  
Fauchet kept up a private correspondence of his own  
with the French Department of Foreign Affairs.

Santhonax and Polverel, the French commissioners for  
the island of St. Domingo, dispatched thither simultane-  
ously with Genet's mission to the United States, after  
having added a civil war to the revolt of the negroes in  
the northern part of that colony, had ended with pro-  
claiming the freedom of all the slaves. This was done  
partly, perhaps, as a retaliation on the planters, most of  
whom had taken sides against the commissioners, and  
partly as a means of saving the colony from the En-

glish, by whom an invasion was threatened ; or, at least, of rendering it a worthless conquest. Soon after this proclamation all the remaining French troops were withdrawn. The white inhabitants continued to emigrate in large numbers, and many had lately arrived at Baltimore in a state of complete destitution. An application to Congress on the part of a committee, formed at Baltimore for the relief of these unfortunate refugees, for aid toward that object, raised a nice constitutional question. Madison opposed entering on the subject, on the ground that the authority of the government of the United States was limited to specific objects, of which charity was not one. Nicholas and Giles took the same view, and Dexter admitted that there was weight in it. But Murray argued that, as the states individually had surrendered to the general government the regulation of intercourse with foreign nations, it came fully within the scope of the authority of Congress to provide relief in cases like the present. The same view was maintained by Boudinot ; and an act was finally passed, in spite of the opposition of the strict constructionists, granting fifteen thousand dollars for the relief of the refugees. Nicholas was very urgent to insert a clause that Congress granted the money, knowing they had no authority to do so, but trusting to the humanity of their constituents to excuse them. In this, however, he did not prevail. On this question the Virginia leaders experienced a signal defeat, the very sympathy for France, on which they so much relied, operating against them.

A like defeat was experienced on the question of providing a naval force, the committee on that subject having reported in favor of building four frigates. After Madison's resolutions had been laid aside, this report was taken up, and debated with much earnestness. The greater

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1794. American commerce and navigation, took strong ground against the report. In vain was the necessity urged of a permanent naval establishment, not only as a protection to our shipping against the piratical Barbary states, but to inspire the belligerent nations with respect for our rights as neutrals, and to protect us from insult in our own ports and harbors. It was answered that these few ships would only serve to expose our weakness, and as a mere temptation to the belligerents, one or other of whom would be ready to seize them on the first convenient pretext. Even as against the Barbary pirates, if force were relied upon, many more ships would be necessary, and the policy of buying a peace was very strongly urged. But though zealously pressed by Madison, Clark, Nicholas, Giles, Smilie, and Findley, these arguments did not prevail. The opposition were deserted by several members from the maritime parts of the country, who on former occasions had voted with them. Yet their arguments and opposition were not altogether with-

Mar. 11. out effect. The bill, as passed, provided for building six frigates, four of forty-four guns and two of thirty-six guns, for which purpose \$688,888 were appropriated by a subsequent act—the first step toward the creation of the existing American navy. But a clause was added for suspending proceedings in case of a peace with Algiers, to purchase which a million of dollars was appropriated, which sum, by another act, the president was authorized to borrow.

Before this matter of the frigates had been finally disposed of, the same committee, enlarged, however, for that purpose into a committee of one from each state,

Mar. 4. reported a bill for the fortification of harbors. The act

as finally passed, authorized the president to commence CHAPTER VI  
fortifications at Portland, Portsmouth, Gloucester, Salem, 

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Boston, Newport, New London, New York, Philadelphia, 1794.  
Wilmington, Baltimore, Alexandria, Norfolk, Ocracook  
Inlet, Cape Fear River, Georgetown, Charleston, Sa-  
vannah, and St. Mary's. Annapolis was added by a  
subsequent act. But the whole amount appropriated for  
this purpose was only \$136,000. By the same act the  
president was authorized to purchase two hundred can-  
non for the armament of the new fortifications, and to  
provide a hundred and fifty extra gun-carriages, with two  
hundred and fifty tons of cannon balls, for which pur-  
pose \$96,000 were appropriated. Another act appro-  
priated \$81,000 for establishing arsenals and armories,  
in addition to those at Springfield and Carlisle, besides  
\$340,000 for the purchase of arms and stores. The  
exportation of arms was prohibited for a year, and all  
arms imported during the next two years were to be free  
of duty.

While these measures were under consideration, the  
excitement against Great Britain received a new im-  
pulse. A British order in council, dated Nov. 6th, 1793,  
but not made public till the close of the year, had di-  
rected the British cruisers to stop, detain, and to bring  
in for adjudication all ships laden with goods the produce  
of any French colony, or carrying provisions or other  
supplies for the use of such colony. This order, the lit-  
eral purport of which went to destroy all neutral trade  
with the French colonies, even that which had been al-  
lowed in time of peace, was issued simultaneously with  
the dispatch of a great expedition for the conquest of the  
French West Indies, to which the English had been  
stimulated by the appeals of the French planters, indig-  
nant at the emancipation of their slaves—a policy ex-

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tended to the other French colonies, as well as to that  
of St. Domingo. Martinique, St. Lucie, and Guadeloupe

1794. all fell into the hands of the English; though, later in the season, Guadeloupe and St. Lucie were recovered by the redoubtable Victor Hugues, formerly a baker at Port au Prince, but suddenly raised, in the confusion of the times, to high political authority, and appointed by the French Convention commissioner for the Windward Islands. St. Domingo was also invaded, and the British and Spaniards were enabled, by the aid of the planters, to occupy several towns on the coast. But the interior of the island, and a part of the coast also, continued to be held for the French republic by several mulatto and black chiefs, among whom Toussaint soon rose to eminence.

The news of the British order in council on the subject of the French colonial trade produced a great excitement at Philadelphia. The struggle, for the moment, seemed to be which party should show itself most decided  
March 12. as against this new aggression. Sedgwick introduced a series of resolutions for the raising of fifteen regiments of a thousand men each, to be enlisted for two years, but bound to serve three years if war should break out, and in the mean time to be drilled not exceeding twenty-four days in each year, to be paid half a dollar for each day's service. The consideration of this proposal was set aside by the calling up of Madison's resolutions, upon which another long debate ensued. In addition to the old objections, this new one was now urged, that the existing state of things looked to war, and that something more serious had become necessary than mere regulations of commerce. In the course of the debate, Ames denounced the resolutions as having French stamped on their face; to which Parker replied, with great warmth, that he

wished every body had a stamp on his forehead, to show whether he was for France or Great Britain. He entered upon a high eulogium of France, to which country alone it was owing that we enjoyed independence. This sentiment drew down the applause of the galleries ; but the House, however French precedents might have justified them, were not willing to submit to this intrusion, and the galleries, though not without a debate upon it, were ordered to be cleared.

While this debate was still going on, the feeling against Great Britain was still further stimulated by the publication in the New York papers of what purported to be a speech of Lord Dorchester's to certain Indians who had waited upon him as a deputation from the late general council held at the Rapids of the Maumee. The suggestion in this speech of the probability of a speedy rupture between the United States and Great Britain was taken as new and strong proof of the hostile disposition of the British, especially as Lord Dorchester had just returned from a visit to England, and might be supposed to speak by authority. The authenticity of this speech has been called in question by Marshall and others, it is believed, however, on insufficient grounds. At all events, no such idea was suggested by Hammond, the British minister, between whom and Randolph a rather tart correspondence presently ensued on the subject of this speech, and respecting certain alleged encroachments by the people of Vermont, the building of a new fort by the British on the Maumee, and other matters of mutual complaint.

Under the excitement of the moment, a joint resolution was passed, laying an embargo for thirty days, afterward extended for thirty days longer—a measure which seemed to have chiefly in view the obstructing the supply of provisions to the British fleet and army in the



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West Indies, but which operated quite as much against the French. Sedgwick's resolutions had been rejected, 1794. but a substitute was passed suggesting a draft of militia.

A committee, to whom this substitute was referred, proposed to detach from the militia eighty thousand minute-men; to enlist, for the purpose of manning the new fortifications, a regiment of artillery, including among the officers one chief engineer and three assistants; and to raise, besides, an additional standing force of twenty-five thousand men.

March 27. Simultaneously with the report of this committee, Smith, of South Carolina, suggested that citizens who suffered spoliation while in pursuit of a lawful trade were entitled to immediate compensation at the hands of their own government, which might then demand indemnity from the aggressor; and he moved a committee to take the subject into consideration.

Dayton, who, though representing one of the New Jersey districts, was a member of a mercantile firm in the city of New York, thereupon moved to sequester all debts due in the United States to British subjects as a fund out of which this indemnification might be made. He thought Congress had the right, by way of retaliation and for the purpose of indemnity, to confiscate all British property, not only that in the hands of individuals, but that also in the public stocks; but, for the present, he would limit his motion to a sequestration of debts. It was in vain to expect indemnity for the spoliation we were suffering, unless it were compelled by some such means. The hostile determination of the British was no longer a secret, as the speech of Lord Dorchester showed. Mercer and Smilie favored Dayton's resolution, and proposed to consider it at once. Ames thought that so serious a measure ought not to be

hurried; he still cherished the hope of peace; he would <sup>CHAPTER VI</sup> struggle against war to the last; and he reprobated any measure tending to drive the nation into it, at least before negotiation had entirely failed. Boudinot wanted time to make up his mind. Tracy also argued for delay. He could not tell what change might be wrought in his opinion; but at present, the proposition before the House appeared to him an outrage upon common honesty. Smith, of South Carolina, declared himself totally ignorant, when he made his suggestion of indemnity, of any design to connect with it a sequestration of debts. He thought the two subjects ought to be kept entirely separate, as otherwise the idea of indemnity to our own citizens might create a very improper bias in favor of sequestration.

In spite of all objections, Dayton's resolution was immediately taken up in Committee of the Whole. Warmly urged by the mover, by Mercer, and by Smith of Maryland, it was opposed by Smith of South Carolina as a step fatal to the credit of the country, and dangerous, also, from its tendency to involve us in future wars. Commerce could not be carried on without creating debts to foreigners; and whenever any considerable number of these debtors became embarrassed, they might be stimulated to embroil us in war, in hopes of avoiding, or at least of delaying, payment. Of those who advocated the present measure, some had rejected with horror the idea of seizing upon the property of British subjects in the public stocks. For his part, he could see no great difference between the two cases. Once break down the barrier which protected debts generally, and it was hard to tell where to stop. He doubted much the power of Congress thus to meddle, in time of peace, with private contracts.

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Before any question was taken, news arrived that the British order of November 6th had been superseded by a new one of the 8th of January, restricting the capture of French produce in neutral vessels to cases in which that produce belonged to Frenchmen, or the vessel was bound to France. It was also stated, as coming from the British ministry, that no confiscation was to take place under the first order, except in cases to which the second order would apply. In consequence of this news, the debate on Dayton's resolution was postponed, and the House employed itself for several days on the proposed measures of defense. Further debate upon the sequestration, when it again came up, was superseded by a motion, proposed by Clark, Dayton's colleague, to discontinue all commercial intercourse with Great Britain and her subjects, so far as respected all articles of the growth or manufacture of Great Britain or Ireland, until the surrender of the Western posts, and due compensation for all losses and damages growing out of British aggressions on our neutral rights. From the course of the debate, it soon became apparent that this resolution would pass the House; while, from the equal division of parties in the Senate, a probability existed of its passing there also. If adopted as the policy of the nation, it seemed to lead directly to war.

As the last resource for averting so dreadful a calamity, Washington was inclined to send a special minister to England, in hopes of bringing to an amicable arrangement the existing points of dispute. He had thought of Hamilton for this mission, and had mentioned the subject to Randolph. At Hamilton's special request, a committee of the House had been appointed to investigate his management of the Treasury Department. This committee, fifteen in number, including Giles and other of his

bitter enemies, and empowered to send for persons and papers, had been hard at work during the session, but without being able to discover any flaws. Yet, the more

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Hamilton's political enemies became satisfied that his conduct was above reproach, the more bitter became their hatred and jealousy. Having learned from Randolph, or judging from the inherent probability of the thing, that Washington thought of sending Hamilton to England, Monroe addressed a letter to the president, deprecating the appointment as not only injurious to the public interests, but especially so to Washington himself, and offering to give his reasons in a private interview. Nor was this a mere individual movement. Another very violent letter against Hamilton's appointment was sent to the president about the same time by one of the Virginia members of the House. Washington consulted Randolph as to these letters, the decorum of which seemed somewhat questionable, especially in Monroe's case, whose duty as a senator it rather seemed to be to pass upon the president's nominations than, by gratuitous and unasked for advice, to assist him in making them. Randolph thought it would be best to grant the interview, but with an intimation to Monroe that he must confine himself to facts. Washington preferred, however, to send a note, requesting Monroe to state in writing any information he might have tending to disqualify Hamilton for the mission referred to—a request which seems to have given a quietus to Monroe's interference.

However Hamilton might be otherwise qualified, the very hatred and jealousy of which he was the object were decisive against the policy of appointing him. Not only might they endanger his confirmation by the Senate, but any treaty that might be formed would be the less palatable for his agency in it. Under these circumstan-

CHAPTER VI ces, Washington turned his eyes on Chief Justice Jay

1794. In point of Revolutionary services, only the president himself stood upon higher ground; nor could any person, except the vice-president, pretend to a place upon the same level. In lofty disinterestedness, in unyielding integrity, in superiority to the illusions of passion, no one of the great men of the Revolution approached so near to Washington. Profound knowledge of the law, inflexible sense of justice, and solidity of judgment, had especially marked him out for the office which he held. Having played a very active part in a state, the seat of hostilities during the whole struggle of the Revolution, he knew what war was, and dreaded it accordingly. One of the ministers who negotiated the treaty of peace, and afterward Secretary of Foreign Affairs, he was perfectly familiar with all the grounds of controversy as between the two nations. Though on questions of principle perfectly unyielding, in matters of interest and expediency he knew the wisdom of giving up a part rather than to risk the loss of the whole. The only serious objection to his appointment was his judicial station; but even that gave an additional dignity to the mission, and in a crisis so important the objection lost much of its weight.

Clark's resolutions, sustained by the whole force of the opposition, and by a few Federalists led on by Dayton, passed the House in committee by sixty-one votes in the affirmative. Such was the state of matters when  
 April 16. the president sent to the Senate his nomination of Jay as special envoy to England, with a message expressing undiminished confidence in Thomas Pinckney, the resident minister, but recommending the proposed extraordinary mission as demonstrating to the world a reluctance at hostilities, and solicitude for a friendly adjustment.  
 April 19. The nomination was confirmed, not without some oppo-

sition, in which the senators from Virginia took the lead. CHAPTER VI.  
The mission, they insisted, was unnecessary; and, if necessary, Jay ought not to be appointed without first resigning his office of chief justice. 1794.

Notwithstanding this appointment, Clark's resolutions were still pressed in the House, and were carried fifty-eight to thirty-eight; and a bill founded upon them was presently passed by a similar majority. The argument April 25 in favor of this bill was, that a suspension of trade would give greater weight to the negotiation. The Federalists did not see the thing in that light; and the bill was defeated in the Senate; but only by the casting vote of the vice-president. Insisting that not suspension of trade, but warlike preparations, were the true means of backing up the negotiation, the Federalists pressed for the twenty-five thousand additional regulars, in favor of which the committee had reported. But the very persons most eager for war with Great Britain had a great dread of standing armies, as tending to strengthen the hands of the administration, and by great efforts on the part of the opposition leaders this proposition was voted down. Acts were passed for raising the proposed regiment of artillery, and for detaching the eighty thousand minute men; but these last formed a mere array on paper, adding nothing to the real force at the disposal of the government.

The arrival of news from the West Indies that many of the vessels seized under the order of the sixth of November had been already released, with accounts also from England of Lord Grenville's declarations in the British Parliament that he wished to preserve harmony with America, and to obliterate, by acts of friendship and good-will, every trace of former animosities, together with his indignant disavowal that the British authorities

CHAPTER VI. had stimulated the Indians to hostilities, tended somewhat to subdue the tone of feeling, and to encourage  
1794. hopes among those more friendly to Great Britain that Jay's mission might prove successful. He was attended  
May 13. to the place of embarkation by a great concourse of citizens, to whom he returned his thanks in a short speech, expressing his determination to leave no means untried to secure the blessings of peace.

In consequence of the application of the French government for the recall of Gouverneur Morris, it had become necessary to appoint another minister to that country. Washington had desired that Jay, after finishing the business of his extraordinary mission, should, in case of a favorable result, remain in England as permanent minister, in which case he proposed to send Thomas Pinckney to France. But to this Jay would not agree. The place was then offered to Chancellor Livingston—a selection, no doubt, prompted by a desire to satisfy the special friends of France, Livingston and his numerous and influential connections in New York having arranged themselves on that side of the question. On Livingston's refusal, knowing from Jefferson's former repeated assurances that Madison would decline it, Washington concluded to offer the appointment to Monroe, who did not hesitate to accept it, but who unfortunately carried into his new position all that spirit of hostility to the policy of the administration by which his late political career had been distinguished. John Q. Adams, son of the vice-president, was soon after sent as minister to the Hague, to supply Short's place, who had been sent to aid and spur up Carmichael at Madrid. The young Adams was indebted for this appointment to some articles in a Boston paper on Genet's proceedings, which had attracted the president's attention.

The appropriations for the service of the current year, CHAPTER VI. exclusive of the interest on the public debt, but including \_\_\_\_\_ the million of dollars to purchase peace with Algiers, and 1794. the extra appropriations for military and naval purposes, amounted to upward of five millions of dollars; making the total sum required for the service of the year somewhat more than eight millions. Two temporary loans had been authorized of a million each; but the increase of the military establishment, the commencement of a navy, and the other extraordinary expenses, would require some permanent addition to the revenue.

The Committee of Ways and Means, after consulting with the Secretary of the Treasury through a sub-committee, conformed to his suggestions in recommending certain additional duties on imports, with taxes on carriages, on sales at auction, on snuff, on refined sugars, and on licenses for retailing wines and foreign spirits, by all which they expected to raise the annual sum of \$992,500. They proposed, in addition, a land tax, to produce \$750,000; but this latter tax found no favor with the House. The other propositions, brought forward in separate bills, lest a combination of objections might defeat the whole, were finally carried; though not without a good deal of opposition, and, in the case of the duties on snuff and refined sugar, some violent remonstrances from the parties more directly interested, against the policy of taxing the infant manufactures of America. The carriage tax was also violently opposed as unconstitutional, the pretense set up being that it was a direct tax, and ought therefore to be apportioned according to the federal ratio. This question was ultimately carried to the Supreme Court, but they did not sustain the objection.

As finally passed, these acts imposed on all carriages



CHAPTER VI. for the conveyance of persons a tax of from one to ten dollars each ; five dollars annually upon every retailer of  
1794. wines and foreign spirits, licensed inn-holders excepted ; a quarter of a dollar on every hundred dollars of the proceeds of sales at auction of lands, houses, ships, and farming stock and tools, and twice as much on sales of other goods ; eight cents per pound on snuff of domestic manufacture ; two cents per pound on domestic refined sugars ; with import duties, in addition to the existing ones, of twelve cents per pound on snuff, four cents per pound on manufactured tobacco and refined sugar, three cents per pound on cheese, two cents on cocoa, one cent on coffee and clayed or lump sugar, half a cent a bushel on coal, twenty-five cents per pair on boots, and five cents on shoes ; with an addition of from two and a half to five per cent. on most of the articles charged with ad valorem duties. The additions to the impost were to be continued till the beginning of the year 1797 ; the internal duties were to remain in force for two years, and were to be collected by the officers already appointed under the excise act on domestic spirits. The collection of this latter duty was now regularly enforced every where except in Western Pennsylvania ; and a new act of the present session made additional provisions toward its complete enforcement.

Soon after his arrival, Fauchet had renewed the applications of his predecessor for an advance of money on the credit of the debt due to France. The president referred this application to Congress, and the House passed a bill authorizing the application to that purpose of the money borrowed in Holland for the use of the sinking fund ; but this bill was thrown out in the Senate. The installments already due to France had been entirely paid up ; and, apart from the objection that it might be

esteemed a breach of neutrality, the state of the treasury and the doubtful prospect of future loans in Europe were strong reasons against any such advance. 1794.

In the course of the session, the final statement, as made up under the acts for that purpose, of the pecuniary account current between the Confederacy and its members, including the assumption of the state debts, was laid before Congress. It appeared by this statement that certain states had claims on the Union for advances beyond their proportion, while an equal total amount was due from certain other states, as follows :

Creditor States.		Debtor States.	
New Hampshire .....	\$ 75,055	New York .....	\$2,074,846
Massachusetts .....	1,248,801	Pennsylvania .....	76,709
Connecticut .....	619,121	Delaware .....	612,428
Rhode Island .....	299,611	Maryland .....	151,640
New Jersey .....	49,030	Virginia .....	100,879
South Carolina .....	1,205,978	North Carolina.....	501,082
Georgia .....	19,988		
	<u>\$3,517,584</u>		<u>\$3,517,584</u>

By the act under which these balances had been struck, the creditor states were entitled to have their claims funded on the same terms with the other assumed state debt, but without transferability. This funding, by an act of the present session, was to take place on the first of January, 1795, including interest up to that period. At the next session the stock was made transferable, and the states which held it were thus enabled to pay off the greater part of their remaining Revolutionary debt. The total amount funded under the original assumption, the quota assigned to several of the states having exceeded the total amount of their debts, was \$18,271,814 ; making the whole amount ultimately assumed \$22,492,888.

Hamilton had foreseen the difficulty of extracting payment from the debtor states ; and by his plan of settlement, as originally proposed, none would have been required. It had been his idea to add to the balances due to

CHAPTER VI the creditor states their share of the amount due from the others. But this plan, which would have made the entire settlement thoroughly equitable, had been rejected by Congress as tending to add to the public debt. Though the subject was repeatedly brought before Congress in the course of the next ten years, no means were ever found of inducing the debtor states to pay; nor was any thing ever obtained, except a small amount from New York, expended by that state on fortifications.

The opponents of slavery and the slave trade, not discouraged by their past experience, had again presented themselves before Congress, and now with better success. Upon the proposal of the New York Society for the Abolition of Slavery, a Convention had met at Philadelphia, on the first day of the year, of delegates from all the Abolition Societies in the country—a meeting which continued to be repeated for several years following. A memorial was agreed upon by this Convention, carefully worded, so as to avoid constitutional objections, praying Congress to do whatever they could for the suppression of the slave trade. Together with a number of Quaker petitions, this memorial was referred to a select committee, and the bill which they reported seems to have passed without opposition. It prohibited the fitting out of ships in the United States for supplying any foreign country with slaves under penalty of forfeiture of the vessel and a fine of \$2000.

During the late struggle carried on in behalf of the neutrality of the United States by the president against Genet and his adherents, very little support had been derived from any statute provisions. The judges had declared that, as treaties were the supreme law of the land, any acts of hostility against nations with whom the United States were at peace, committed or prepared for

within their jurisdiction, were criminal, and might be in- CHAPTER VI.  
 dicted and punished. But in the acquittal of Henfield, 1794.  
 the jury had taken it upon themselves to disregard this opinion. Several of the district courts, that of Pennsylvania among the others, had declined to take any jurisdiction of cases in which restoration of prizes was claimed on the ground of illegal capture. In their opinion, these were not mere questions of ownership, but involved political relations, of which the decision belonged to the government, and not to the courts. The president had thus been driven to a direct exertion of power, or, rather, an indirect exertion of it, in calling out detachments of militia through the agency of the governors of the states—a resource the more delicate, as these governors did not always sympathize with his political views. He had urged the necessity of legislation on this subject in his opening speech, and toward the close of the session he May 20  
 enforced it by a special message, inclosing a correspondence with Governor Shelby respecting the enterprise on foot in that state for an expedition under French commissions against Louisiana. Shelby started many difficulties as to his right to interfere, and emphatically expressed his disinclination to do so against “men whom we considered as friends and brethren,” against the King of Spain, whom he viewed as “an enemy and a tyrant.” Though hitherto delayed for want of money, this enterprise might be pushed again at any time. The energetic interference of the Legislature of South Carolina had broken up the organization in that state for invading Florida. But that undertaking was by no means given up. The parties concerned in it had begun to collect again in the Creek nation, and further action might become necessary in that quarter.

A bill embracing this whole subject had already passed

CHAPTER VI. the Senate by the casting vote of the vice-president. It  
 1794. contained also a provision prohibiting the sale of prizes  
 within the United States, a practice which had hitherto  
 been allowed out of courtesy to the French, but to which  
 they were not thought to be entitled under the treaty.  
 This bill encountered in the House a very violent oppo-  
 sition; but by a very great triumph on the part of the  
 June 5. administration it finally passed, with the exception of  
 the clause respecting the sale of prizes.

By this important act, which still remains in force, all  
 persons within the jurisdiction of the United States, them-  
 selves entering, or enlisting others into the military serv-  
 ice of any foreign prince or state, whether by sea or land,  
 are made liable to a fine of \$1000, and imprisonment not  
 exceeding three years; but those enlisted may avoid the  
 penalty by information lodged with any magistrate lead-  
 ing to the conviction of those by whom they had been  
 enlisted.

The fitting out of cruisers in the United States for  
 the service of any foreign power, or the issuing commis-  
 sions to such vessels, or the setting on foot of any mili-  
 tary expedition against any foreign power with whom  
 the United States were at peace, is made punishable,  
 at the discretion of the court, by fine not exceeding  
 \$5000, and imprisonment not exceeding three years,  
 with forfeiture of the vessel. Increasing the armament  
 of any foreign ship or cruiser is subject to similar, but  
 less penalties. Jurisdiction is expressly given to the  
 District Courts in all cases of capture within the wa-  
 ters of the United States; and in all cases of violation  
 of this law, or of resistance by any cruiser or armed ves-  
 sel to the process of the United States Courts, the pres-  
 ident, or those whom he may empower, are authorized  
 to employ the federal land and naval forces, as well as

the militia, in enforcing the authority of the govern-  
ment.

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As an additional means toward this same end, the president was authorized to build or purchase a number of vessels, to be equipped as galleys for harbor service. The sum of \$80,000 was appropriated to this object, which seems, however, not to have been carried into effect, as the money was reappropriated at the next session toward the completion of the frigates.

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At the end of sixty days the embargo had been suffered to expire; but a temporary act authorized the president to renew it at any time before the next session of Congress, which was fixed by another act for the first Monday of November

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INSURRECTION IN WESTERN PENNSYLVANIA. WAYNE'S  
VICTORY OVER THE INDIANS. SECOND SESSION OF THE  
THIRD CONGRESS.

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**V**ERY shortly after the adjournment of Congress, steps were taken, under the new act on that subject, 1794. for enforcing the collection of the excise duty in the western counties of Pennsylvania. Indictments were found against a number of distillers who had neglected to enter their stills; and thirty warrants were issued, which the marshal of the district undertook to serve. He succeeded as to twenty-nine of them; but as, in company with General Neville, the inspector of the district, he was going to serve the thirtieth, they were intercepted by a party of armed men, who fired upon them, and compelled them to fly for their lives. The next July 16. morning Neville's house, in the vicinity of Pittsburg, was attacked by an armed party of forty or more. In expectation of some such violence, the windows had been barricaded; Neville's negroes and other servants had been armed; and the assailants were repulsed with the loss of six men wounded, one of them mortally. Neville immediately applied for protection to two magistrates and militia officers of the county. Upon their declaration that, however willing, it was utterly out of their power to give it, he obtained a detachment of eleven men from the neighboring garrison of Fort Pitt. The July 17. next morning the assailants reappeared, five hundred strong, led on by one John Holcroft, who, under the as-

sumed name of Tom the Tinker, had been deeply concerned in stirring up previous outrages against officers who attempted to enforce the law, and distillers who were disposed to submit to it. On the approach of this force, Neville escaped from the house, leaving his kinsman, Major Fitzpatrick, with the soldiers, to make such defense or capitulation as might seem expedient. The assailants had appointed a committee of three as directors of the enterprise, and they had chosen as commander one M<sup>c</sup>Farlane, formerly a lieutenant in the Continental service. The surrender of Neville was demanded, and, on information that he was gone, the admission of six men to search the house for the papers connected with his office. This being refused, a flag was sent for the women to leave the house, soon after which an attack was commenced. M<sup>c</sup>Farlane was killed and several other of the assailants were wounded; but they succeeded in setting fire to the out-houses, and, as the flames threatened to spread, the garrison, three of whom had been wounded, found themselves obliged to surrender. The men were dismissed without injury, but all the buildings were burned to the ground. The marshal and the inspector's son, who came up just after the surrender, were made prisoners. The marshal was subjected to a good deal of abuse, and was only dismissed after a promise, extorted by threats of instant death, and guaranteed by young Neville, not to attempt to serve any more processes west of the mountains. The next day a message was sent to Pittsburg, where the inspector and the marshal had taken refuge, requiring the one to resign his office, and the other to give up the warrants in his possession. This they refused to do. The means of protection at Pittsburg were small; and as the roads eastward would most likely be guarded, as



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the only means of escape, they embarked on the Ohio, descended as far as Marietta, and thence set out by land 1794. for Philadelphia, the greater part of the way through a wilderness.

The next decided step seems to have been a public meeting, held at Mingo Creek meeting-house, in the neighborhood of which most of the late rioters resided. Bradford and Marshall were both present; also Brackenridge, a lawyer of Pittsburg, a leading member of the Democratic club of that vicinity, who attended, according to his own account, by special invitation. Bradford was for making common cause with the rioters. Brackenridge suggested that, however justifiable in itself, their conduct was nevertheless illegal, and that it was bad policy to draw into the same position those who might otherwise act as mediators. It was finally agreed to call a convention of delegates from all the townships west of the mountains, and from the adjoining counties of Maryland and Virginia, to meet in three weeks at Parkinson's Ferry, on the Monongahela.

July 23. Two or three days after this preliminary meeting, anxious to ascertain how the late proceedings had been represented, Bradford caused the mail from Pittsburg to Philadelphia to be intercepted. Letters were found in it, from young Neville and others, giving accounts, by no means satisfactory to the parties concerned, of the burning of the inspector's house, and of the late meeting at Mingo Creek. Without waiting for the proposed convention, a circular, signed by Bradford, Marshall, and four or five others, was forthwith addressed to the officers of the militia of the western counties, stating that, by the interception of the mail, important secrets had been discovered, which made necessary an expression of sentiment, not by words, but by actions. The officers

were therefore called upon to muster as many volunteers as they could, to assemble on the first of August at the usual place of rendezvous, at Braddock's Field, on the Monongahela, with arms and accouterments, and provisions for four days. CHAPTER  
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Meanwhile, the mail, with its contents, except the intercepted letters, was sent back to Pittsburg, and the citizens of that town, to pacify the excitement, went through the form of expelling the obnoxious letter-writers.

The summons to the militia, though it had only three days to circulate, and that among a population scattered over a wide extent of country, drew together not less than seven thousand armed men. Many afterward alleged that they went out of curiosity, and others, that their sole intention was to prevent mischief; and this was certainly the case with some who were present, among whom was Ross, the United States senator. But the very fact of this prompt obedience to their orders could not but inspire the leaders with a high idea of their power and influence, while it tended also to increase the mischief, by giving the impression to the public at large of a general unanimity of sentiment. Colonel Cook, one of the judges of Fayette county, a member of the first popular convention held in Pennsylvania at the commencement of the Revolution, distinguished for his opposition to the excise, having repeatedly presided at the public meetings called to protest against it, was chosen president of this armed assembly. Albert Gallatin, the late rejected senator, was appointed secretary. Bradford, to whom every body cringed, assumed the character of major general, and reviewed the troops. A committee, to whom matters of business were referred, resolved that two more citizens of Pittsburg should be expelled. The troops then marched into the town, and

CHAPTER VII. after receiving refreshments, which the terrified inhabitants hastened to furnish, the greater part marched out  
 1794. again. The more orderly dispersed ; but several parties kept together, one of which destroyed a barn belonging to Major Fitzpatrick, and another attempted, but without success, to burn his house in Pittsburg.

It was Bradford's design, in calling this armed body together, to get possession of Fort Pitt, and the arms and ammunition deposited in it ; but, finding most of the principal militia officers unwilling to co-operate, that design was abandoned. Immediately after this armed assembly, the remaining excise officers were expelled even from those districts in which the opposition had hitherto been less violent. Many outrages were committed, some of the officers being cruelly treated, and their houses burned. The same spirit began to spread into the bordering counties of Virginia, and, as the day for the meeting at Parkinson's Ferry approached, things assumed a very threatening aspect. However opposition to the excise law might have been countenanced by the great body of the population, including the principal political leaders, the measures of actual resistance to it had been chiefly in the hands of a few violent and reckless individuals, who, sometimes by outrages and sometimes by threats, had kept in awe not only the excise officers, but such of the distillers also as were disposed to submit to the payment of the tax. This reign of terror was now extended and completely established. No one dared utter a word against the recent proceedings for fear of banishment, personal violence, or the destruction of his property.

News of the burning of Neville's house, of the meeting at Mingo Creek, and of the robbery of the mail soon  
 July 31. reached Philadelphia. In the eyes of the president and his cabinet, these incidents assumed a very serious char-

acter. With the arrival of news of the great triumphs achieved by the French arms, and of the subsidence of internal revolt under the terrible discipline of the Reign of Terror, the Democratic societies, recovering from the temporary check growing out of the conduct of Genet and the disasters of the French republic, had become more vigorous and violent than ever, and very unsparing in their attacks upon the policy of the federal administration. The Charleston society, on their own application, and on motion of the celebrated Collot d'Herbois, had been recognized by the Jacobin Club of Paris as an affiliated branch. The Democratic society of Washington county, one of those involved in the present disturbances, had recently passed strong resolutions, copied from those of Kentucky, on the subject of the navigation of the Mississippi. The French agents were still active in Kentucky, and a secret understanding was suspected between all these parties. The Democratic society of Philadelphia hastened indeed to pass resolutions, in which, after execrating the excise law, they declared, however, their disapproval of violent resistance. But no great faith was placed in their sincerity, or in the concurrence of the affiliated branches. In a cotemporary letter to Governor Lee, of Virginia, Washington speaks of the leaders of these societies—the great body of the members knowing little of the real plan—as artful and designing men, whose great object was, under a display of popular and fascinating guises, to destroy all confidence in the administration, and likely, if not counteracted and their real character exposed, to shake the government to its very foundation.

In the present inflammatory state of the public mind, the resistance to the laws in Western Pennsylvania, if not immediately checked, might find many imitators

CHAPTER VII. Hamilton, Knox, and Bradford advised that the militia be called out at once. But upon a suggestion to Gov-

1794. ernor Mifflin to that effect, he expressed apprehensions that a resort to force might inflame and augment the existing opposition, and, by connecting with it other causes of complaint, might produce such an excitement as to make it necessary to call in aid from the neighboring states—a step by which jealousy and discontent would be still further aggravated. He even questioned whether the militia would “pay a passive obedience to the mandates of the government.” He doubted also his own authority to make a call; for, whatever might be the case with the federal judiciary, it did not yet appear that the ordinary course of the state law was not able to punish the rioters and to maintain order. He was therefore disposed to be content for the present with a circular letter already dispatched to the state officers of the western counties, expressive of his indignation at the recent occurrences, and requiring the exertion of their utmost authority to suppress the tumults and to punish the offenders.

Mifflin’s refusal removed all pretense for alleging that opportunity had not been afforded to the State of Pennsylvania to vindicate the authority of the laws by her own means. As the case seemed to require immediate interference, Washington resolved to take the responsibility on himself, and to act with vigor. A certificate was obtained, as the statute required, from a judge of the Supreme Court, that in the counties of Washington and Allegany the execution of the laws of the United States was obstructed by combinations too powerful to be suppressed by the ordinary course of judicial proceedings. A proclamation was put forth requiring these opposers of the laws to desist, and a requisition was issued

Aug 7.

to the governors of Pennsylvania, New Jersey, Maryland, and Virginia for a body of 13,000 men, raised afterward to 15,000. The insurgent counties could bring into the field about 16,000 fighting men. It was judged expedient to send a force such as would quite discourage any resistance.

This calling out the militia was not entirely approved by Randolph, the secretary of state. He seemed to apprehend, with Mifflin, that an attempt to enforce the authority of government might lead to a general convulsion; and he appeared to be greatly impressed by a letter of Brackenridge's to a friend in Philadelphia, communicated to the cabinet, in which the writer maintained the ability of the western counties to defend themselves, suggesting the indisposition of the midland counties to allow the march of troops for the West, the possibility of application to Great Britain for aid, and even of a march on Philadelphia.

The movement of the troops was fixed for the first of September. Meanwhile, three commissioners, appointed by the president, Senator Ross, Bradford, the attorney general, and Yates, one of the judges of the Supreme Court of Pennsylvania, were dispatched to the insurgent counties, with discretionary authority to arrange, if possible, any time prior to the 14th of September, an effectual submission to the laws. Chief Justice M'Kean and General Irving were appointed commissioners on the part of the state. Simultaneously with this appointment, Mifflin issued two proclamations, one calling the Legislature together, the other requiring the rioters to submit, and announcing his determination to obey the president's call for militia.

The two boards of commissioners crossed the mountains together, and, on arriving in the disturbed district, Aug 14

CHAPTER VII. found the convention, called by the meeting at Mingo Creek, already in session at Parkinson's Ferry. It consisted of upward of two hundred delegates, including two from that part of Bedford county west of the mountains, and three from Ohio county, in Virginia. Almost all the townships of the four western counties were fully represented. Cook was chairman, and Gallatin secretary. The delegates were convened on an eminence, under the shade of trees, surrounded by a collection of spectators, some of them armed. Near by stood a liberty-pole, with the motto, "Liberty, and no excise! No asylum for cowards and traitors!"

A series of resolutions was offered by Marshall, of which the first, against taking citizens out of the vicinity for trial, passed without objection. The second resolution proposed the appointment of a committee of public safety, empowered "to call forth the resources of the Western country to repel any hostile attempts against the citizens." After a speech, in which he denied any danger of hostilities, the only danger being that of legal coercion, Gallatin proposed to refer this resolution to a select committee. But, though there were many persons present whose chief object, like Gallatin's, it was to extricate the people from the disastrous consequences of a violent opposition to the laws, which they themselves had done much to stimulate, no one dared to second the motion. Marshall, however, already began to waver; and he presently offered to withdraw the proposition, provided a committee of sixty was appointed, with power to call another meeting. This was readily agreed to, as was also the appointment of a sub-committee of fifteen, to confer with the federal and state commissioners. For the purpose of being remodeled, the resolutions were referred to a committee, consisting of Bradford, Gallatin

Brackenridge, and Herman Husbands, then a very old man, a leader formerly among the North Carolina Regulators. The determination expressed in one of these resolutions, not to submit to the excise, was struck out on Gallatin's motion. But neither he nor any body else went so far as to advocate obedience to it. A promise to submit to the state laws was, however, inserted. This business being disposed of, the exercise of some address secured a dissolution of the meeting, the assembly of the committee of sixty being fixed for the 2d of September. CHAPTER  
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A few days after, as had been arranged, the committee of fifteen met the commissioners at Pittsburg. Among the members of this committee were Bradford, Marshall, Cook, Gallatin, and Brackenridge, the whole, except Bradford, being inclined to an accommodation. A candidate for Congress for the Pittsburg district, in his anxiety to secure votes, Brackenridge had hitherto gone so far as to make the insurgents believe he was on their side. But he was well aware of the folly and hopelessness of their cause, and at bottom not less anxious than Gallatin to escape out of the present dilemma. In a book which he afterward published, he excused the part he had taken as necessary to protect himself against the violence of the insurgents. The demands of the commissioners were exceedingly moderate. They required from the committee of sixty an explicit declaration of their determination to submit to the laws, and a recommendation to the citizens at large to submit also, and to abstain from all opposition, direct or indirect, and especially from violence or threats against the excise officers or the complying distillers. Primary meetings were required to be held to test the sense of the citizens in these particulars. Should satisfactory assurances be given on or before the fourteenth of September, the commissioners promised a suspension till Aug 21



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the next July of all prosecutions for offenses prior in date to this arrangement; and in case the law, during that interval, should be generally complied with, in good faith, a final pardon, and oblivion of all such offenses.

1794. The committee of fifteen pronounced these terms reasonable; and, to give more time to carry out the arrangement, they agreed to anticipate by four days the calling together of the committee of sixty. Meanwhile a report spread that the conferees had been bribed; indeed, that charge was made in express terms in a letter of Tom the Tinker to the Pittsburg Gazette, which the printer, as was the case with other communications of that anonymous personage, did not dare to omit to publish. While the members of the committee of sixty were collecting at Brownsville, the place appointed for the meeting, an armed party of horse and foot entered the town with drums beating. The friends of submission were so intimidated that, but for Gallatin, they would have abandoned all thoughts of urging an accommodation. Bradford insisted on taking the question at once; but, by the exercise of some address, the matter was postponed till the next day, and meanwhile the armed party were persuaded to return to their homes.

Gallatin opened the business the next morning in a speech, in which the motives to submission were judiciously urged. He was followed by Brackenridge, who now came out strongly on the same side. Bradford, in an extravagant harangue, urged continued resistance, and the organization of an independent state. Not daring to expose themselves by an open vote, the friends of submission had prevailed that the decision should be by secret ballot. They were thus enabled to carry, by a very lean majority, a resolution that it would be for the interest of the people to accede to the terms offered by

the commissioners. But they did not dare to propose what the commissioners had demanded, a pledge from the members of the committee themselves to submit to the law, and arrangements for obtaining, in primary meetings, a like pledge from the individual citizens. After appointing a new committee of conference, the committee of sixty adjourned without day.

The new conferees asked of the commissioners further delay till the 10th of October, to ascertain the sense of the people; but this was declined as being beyond their authority. They now required that meetings should be held in the several townships on the eleventh of September, any two or more members of the late committee of sixty, or any justice of the peace to preside, at which the citizens should vote yea or nay on the question of submitting to and supporting the law, all those voting in the affirmative to sign a declaration to that effect, which was to secure them an amnesty as to past offenses. The third day after the vote, the presiding officers were to assemble in their respective county court houses, to ascertain the number of votes both ways, and to declare their opinion in writing whether the submission was so general that excise inspection offices could be re-established with safety; all the papers to be forwarded to the commissioners at Union Town by the sixteenth of the month.

Meetings were held under this arrangement in many of the townships, but the result, on the whole, was quite unsatisfactory. Most of the more intelligent leaders were careful to provide for their own safety by signing the required submission; but many of those who had taken no active part in resisting the law refused to attend, or to pledge themselves to obedience. As they had committed no offense, such was their argument, they ought

CHAPTER  
VII. not to be required to submit—as if winking at the violation of law and neglecting to assist in its enforcement

1794. were not among the greatest of offenses. In some townships the meetings were violently broken up and the papers torn to pieces. Such was the case in the town in which Findley resided, who, it seems, was personally insulted on the occasion. From Allegany county no returns were received. The judges of the vote in Westmoreland expressed the opinion that excise inspection offices could not be safely established in that county. In the other two counties the expression of any direct opinion was avoided; but these counties had always been more violent than Westmoreland. The better disposed part of the population had begun to form associations for mutual defense, and the opinion among them was quite universal that the presence of the troops was absolutely necessary.

Notwithstanding the timidity and alarms of Randolph and others, real or pretended, the president's call for militia, as on the former appeal to the people in the case of Genet, had been responded to with a spirit that gave new strength and confidence to the government. The Pennsylvanians at first were rather backward, and a draft ordered by Mifflin seemed likely, by reason, it was said, of defects in the militia laws, to prove a failure. But the Legislature, on coming together, having first denounced the insurgents in strong terms, to save the  
Sept 19. delays attendant on drafting, authorized the government to accept volunteers, to whom a bounty was offered. As if to make up for his former hesitation, and with a military sensibility to the disgrace of failing to meet the requisition, Mifflin, in a tour through the lower counties, as in several cases during the Revolutionary struggle, by the influence of his extraordinary popular

eloquence, soon caused the ranks to be filled up. As a CHAPTER  
VII. further stimulus, subscriptions were opened to support the wives and children of the volunteers during their absence. The quotas of the other states were promptly furnished, composed in a large part of volunteers. The troops of Virginia, led by Morgan, and those of Maryland by Smith, the Baltimore member of Congress, forming together the left wing, assembled at Cumberland, thence to march across the mountains by Braddock's road; those of Pennsylvania and New Jersey, led by Governors Mifflin and Howell in person, and forming the right wing, had their rendezvous at Bedford, to cross the mountains by the northern or Pennsylvania route. The command-in-chief of the expedition was given to Governor Lee, of Virginia.

The commissioners having returned to Philadelphia and made their report, the president the next day issued Sept 24 a new proclamation, giving notice of the advance of the troops—which, in anticipation of the failure of the mission, had already been put in motion—and commanding submission to the laws. There was the more need of decisive measures, as the spirit of disaffection was evidently spreading. At Greensburg, in Westmoreland county, a house in which the state commissioners lodged on their way home had been assailed by a mob, who demanded entrance, broke the windows, and were only driven away by threats of being fired upon. The same feeling had also spread to the east side of the mountains. At Carlisle, while on their way home, Judges M'Kean and Yates had required bonds of certain persons charged with seditious practices in erecting whisky or liberty poles. Hardly had they left the town, when two hundred armed men marched in, and, being disappointed in seizing the judges, burned them in effigy,

CHAPTER VII. and committed other outrages. There were also signs of similar disturbances in the neighboring counties of 1794. Maryland; but these were soon suppressed by a party of horse, who made more than a hundred prisoners, most of whom were committed to Hagerstown jail.

Calmer thoughts, and the news that the troops were marching against them, soon produced a change of feeling in the western counties. Bradford and others of the more violent fled the country. Encouraged by these symptoms of returning reason, the better disposed caused Oct. 2. a new convention to be held at Parkinson's Ferry. Resolutions of submission were passed, and a declaration was agreed to, that the late failure in obtaining written pledges was principally owing to want of time and information, to a prevailing sense of innocence, and to the idea that to sign the pledge required would imply a confession of guilt. Findley at last had mustered courage to take a decided part on the side of order; and he was dispatched, with one Redick, to convey these resolutions to the president, and to stop, if possible, the march of the troops. At Carlisle these commissioners encountered the advance of the right wing, five or six thousand strong. Findley, who has left us a very labored apology for himself and his political friends, under the title of a "History of the Insurrection," found the troops, as he tells us, in a high state of excitement against the rebels. Two persons had been killed already; a man, run through the body by a soldier, whose bayonet he had seized when ordered to arrest him for insulting an officer, and a boy, accidentally shot by one of a party of light horse sent to arrest those concerned in the late riot at Carlisle. But in both these cases—and this was the only blood shed during the expedition—the parties concerned had been delivered over to the civil authorities for trial, and every

effort was made by the president and the Secretary of the Treasury, both of whom had followed the troops to Carlisle, to preserve the strictest discipline, and to im-  
 press the necessity of avoiding all unnecessary violence and harshness. Findley, however, who was but just beginning to recover from the terror of having his buildings burned, or being himself tarred and feathered, by men whose violence he had found it much easier to stimulate than to control, seems to have been not a little frightened, on the other hand, at the swagger, bluster, and loud words of some of the militia officers against the whisky rebels, whose insolent resistance to the laws had made necessary so long and fatiguing a march.

The president treated Findley and his brother ambassador with courtesy, and admitted them to several interviews; but did not see fit, from any evidence which they exhibited, to countermand the march of the troops. They hastened back, therefore, to procure more general and unequivocal assurances, which they hoped to transmit to Bedford, where Washington was again to meet the right wing, after inspecting the troops on the left. The Parkinson Ferry Convention, augmented by many discreet citizens, was again called together for the third time. Resolutions were passed declaring the competency of the civil authorities to enforce the laws, recommending all delinquents who had not already secured an indemnity to surrender for trial, and expressing the conviction that offices of inspection might be opened with safety, and that the excise duties would be paid. Findley hastened back with these resolutions, but before he reached the army the president had already returned to Philadelphia. Hamilton, however, remained behind, and was believed to act as the president's deputy. The troops crossed the Alleghanies in a heavy rain, up to their knees in mud,

CHAPTER VII. and not without severe suffering, which occasioned in the  
end a good many deaths. The two wings formed a junc-

1794. tion at Union Town, and, as they advanced into the dis-  
affected counties, the re-establishment of the authority  
of the law became complete. Having arrived at Park-

Nov. 8. inson's Ferry, Lee issued a proclamation confirming the  
amnesty to those who had entitled themselves to it, and  
calling upon all the inhabitants to take the oath of al-  
legiance to the United States.

Nov. 13. A few days after, arrangements having been previously  
made for it, there was a general seizure, by parties de-  
tached for that purpose, of persons supposed to be crim-  
inally concerned in the late transactions. But as those  
against whom the strongest evidence existed had either  
fled the country or taken advantage of the amnesty, this  
seizure fell principally on persons who, without taking  
an active part, had been content with encouraging and  
stimulating others. Many were dismissed at once for  
want of evidence; and of those who were bound over for  
trial at Philadelphia, the greater part were afterward ac-  
quitted. Among those thus bound over, Brackenridge  
was one; but, instead of being tried, he was used as a  
witness against the others. These people complained  
loudly of the inconvenience to which they had been put,  
and of the harsh treatment which, in some few cases,  
had been experienced at the hands of the military par-  
ties by whom the arrests had been made. But such evils  
were only the natural consequence of lying quietly by  
and allowing resistance to the laws to aggravate itself  
into rebellion.

Shortly after the seizure of prisoners, the greater part  
of the troops were withdrawn; but a body of twenty-five  
hundred men, under Morgan, remained through the win-  
ter encamped in the district. The advances necessary

to sustain the troops in the field had been made out of a sum in the treasury of about \$800,000, the unexpended balance of the foreign loans, Congress being trusted to for making good the deficiency. 1794.

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About the time that the troops entered the disaffected counties, an election had taken place, at which were chosen not only members of the state Assembly, but members of Congress also. When the Legislature of Pennsylvania met, a question was raised as to the validity of these elections. Of those returned to the Assembly, Gallatin was one; and he had the greater interest in the question, since he had been elected at the same time a member of the fourth Congress, and that body might be influenced, perhaps, by the example of the Pennsylvania Assembly. In the course of an able speech, Gallatin confessed his "political sin" in having been concerned in the preparation and adoption of the Pittsburg resolutions of Aug. 24, 1792, which, though not illegal, he admitted to have been "violent, intemperate, and reprehensible;" but all the rest of the opposition made to the Excise Law by means of public meetings he was inclined to justify, and to shift off the blame of the whole affair upon a few obscure rioters. Order, he maintained, had been substantially re-established before the elections took place. The Assembly, however, judged differently, and a new election was ordered.

Dec

Of all the prisoners tried before the Circuit Court at Philadelphia, only two were found guilty of treason, both of whom, from some palliating circumstances, were ultimately pardoned by the president. A number more were convicted of minor offenses. According to Findley, Hamilton made great efforts to obtain evidence against himself, Smilie, and Gallatin. But, however reprehensible their conduct might have been in encour-



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aging and stimulating the original opposition to the ex-  
cise, the late outbreak, as Gallatin maintained in his  
1794. speech, and Findley afterward at great length in his His-  
tory, seems to have been a sudden, unpremeditated, and,  
in its particular circumstances, an accidental thing, with  
which they had no immediate concern. They had only  
prepared the combustibles to which others set the torch;  
and they seem to have exerted themselves with good faith,  
and Gallatin at some personal risk, and with a good deal  
of courage, in quenching the flame when actually kindled.

The vigor, energy, promptitude, and decision with  
which the federal authority had been vindicated; the  
general rally in its support, even on the part of many  
who had leaned more or less to the opposition; the rep-  
robation every where expressed against violent resistance  
to the law; and the subdued tone, especially of the Dem-  
ocratic societies, made a great addition to the strength  
of the government. The Federalists exulted in this en-  
ergetic display of authority, and Hamilton declared that  
proof at last had been given of the capacity of the gov-  
ernment to sustain itself. In that point of view, both  
he and Washington considered the outbreak, however  
much to be lamented in other respects, as a fortunate  
occurrence.

In due proportion to the exultation of the Federalists  
was the vexation of the chief leaders of the opposition;  
a vexation the keener, because, to a great extent, it was  
necessary to withhold the expression of it. This vexa-  
tion was largely shared by Fauchet, the French minis-  
ter, whose communications on the subject to his own  
government contained statements and reflections suffi-  
ciently remarkable. In his private dispatch, No. 6, the  
precise date of which does not appear, but which must  
have been written some time in August, was given, ac-

ording to an extract afterward furnished by himself, the following extraordinary piece of information. "Scarce was the commotion known"—the disturbances, that is, in the Western country—"when the Secretary of State came to my house. All his countenance was grief. He requested of me a private conversation. It is all over, he said to me; a civil war is about to ravage our unhappy country. Four men, by their talents, their influence, their energy, may save it. But, debtors of English merchants, they will be deprived of their liberty if they take the smallest step. Could you lend them instantaneous funds sufficient to shelter them from English persecution?" "This inquiry," the dispatch continued, "astonished me. It was impossible for me to make a satisfactory answer. You know my want of power, and my defect of pecuniary means. I shall draw myself from the affair by some common-place remarks, and by throwing myself on the pure and disinterested principles of the republic."

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To this subject Fauchet returned in his dispatch, No. 10, dated the 31st of October. It commenced with a sketch of the rise of parties in the United States, in substantial accordance with the views of Jefferson as exhibited in previous chapters, and evidently derived from some one of the Republican party, who had undertaken, as Jefferson himself had in Genet's case, to initiate Fauchet into "the mysteries" of American politics. In this initiation Mr. Secretary Randolph would seem to have had a principal share, since Fauchet speaks, in the commencement of the dispatch, of his "precious confessions" as alone throwing "a satisfactory light upon every thing which comes to pass." The disturbances in Western Pennsylvania were represented by Fauchet as having grown out of political hostility to Hamilton, and Ham-

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1794. ilton himself as taking the advantage which they afforded to make the president regard as a blow at the Constitution what, in fact, was only a protest against the minister. Hence the persistence in enforcing the excise, it being Hamilton's intention—and this piece of information was ascribed expressly to Randolph—"to mislead the president into unpopular courses, and to introduce absolute power under pretext of giving energy to the government." Such, according to Fauchet, was the origin of the expedition into the western counties of Pennsylvania. His disgust at the general co-operation it had called forth, and at the behavior in the matter of certain professed Republicans, is sufficiently evinced in what follows. "Of the governors whose duty it was to appear at the head of the requisitions, the Governor of Pennsylvania alone enjoyed the name of Republican. His opinions of the Secretary of the Treasury and of his systems were known to be unfavorable. The secretary of this state [Dallas] possessed great influence in the popular society of Philadelphia, which, in its turn, influenced those of other states; of course, he merited attention. It appears that these men, with others unknown to me, were balancing to decide on their party. Two or three days before the proclamation was published, and, of course, before the cabinet had resolved on its measures, Mr. Randolph came to see me with an air of great eagerness, and made to me the overtures of which I have given an account in my No. 6. Thus, with some thousands of dollars, the republic could have decided on civil war or on peace! Thus the consciences of the pretended patriots of America already have their prices!

"Such, citizen, is the evident consequence of the system of finances conceived by Mr. Hamilton. He has made of a whole nation a stock-jobbing, speculating,

selfish people. Riches alone here fix consideration, and, as no one likes to be despised, they are universally sought after. Nevertheless, this depravity has not yet embraced the mass of the people. Still there are patriots of whom I delight to entertain, an idea worthy of that imposing title. Consult Monroe—he is of this number; he had apprised me of the men whom the current of events has dragged along as bodies devoid of weight. His friend Madison is also an honest man. Jefferson, on whom the patriots cast their eyes to succeed the president, had foreseen these crises; he prudently retired in order to avoid making a figure in scenes the secret of which will, sooner or later, be brought to light.

“As soon as it was decided that the French republic purchased no men to do their duty, there were to be seen individuals about whose conduct the government could, at least, form uneasy conjectures, giving themselves up with a scandalous ostentation to its views, and even seconding its declarations. The popular societies soon emitted resolutions stamped with the same spirit, which, although they may have been prompted by love of order, might nevertheless have been omitted, or uttered with less solemnity. Then were seen coming from the very men whom we have been accustomed to regard as having little friendship for the system of the treasurer, harangues without end, in order to give a new direction to the public mind.”

We shall have occasion to state hereafter the joint explanation, lamely attempted by Fauchet and Randolph, of the unofficial intercourse between them, disclosed in these extraordinary dispatches. They are given here, not for any weight to be attached to their allegations or conjectures, but as going to show the opinions which Fauchet had imbibed of the state of politics and the char-

CHAPTER acter of individuals, and as tending to throw light upon  
 VII. subsequent events, by exhibiting the position in which  
 1794. Randolph really stood to the policy of the administration  
 and his colleagues in it. It certainly must be confessed  
 that Washington was at least very unfortunate in the  
 Virginia members of his cabinet.

Among numerous other bugbears suggested by those  
 who had opposed the use of force against the Pennsyl-  
 vania insurgents, the danger had been much dwelt upon  
 that they might cut off the supply of provisions for the  
 army in the West, thereby exposing it to disbandment  
 or destruction. But as the militia were crossing the  
 mountains, news arrived of a complete victory gained by  
 Wayne over the Indians.

Wayne had commenced operations early in the sum-  
 mer by pushing forward a strong detachment from his  
 camp at Grenville to occupy St. Clair's battle-field,  
 twenty-four miles in advance. Fort Recovery, built  
 June 30. upon this spot, was presently attacked by a large body  
 of Indians, who were repulsed, however, after a two days'  
 fight. But the Indians were not entirely unsuccessful,  
 since they carried off three hundred pack-mules, and in-  
 flicted a loss of fifty men upon an escort of three times  
 that number, which had just guarded a provision train  
 to the fort, and lay encamped outside. Meanwhile, Gen-  
 eral Scott was employed in Kentucky in raising a body  
 of mounted militia to re-enforce Wayne's legion, which,  
 garrisons deducted, did not much exceed two thousand  
 effective men. Upon Scott's arrival with eleven hund-  
 Aug. 8. red of these volunteers, Wayne advanced to the conflu-  
 ence of the Au Glaize and the Maumee. The Indians  
 had expected the advance in another direction. Taken  
 by surprise, they fled precipitately, and this "grand em-  
 porium" of the hostile tribes, as Wayne styled it, was

gained without loss. Here were fields of corn, planted by the Indians, more extensive than any which Wayne had ever seen. The fertile margins of these beautiful rivers, for several miles above and below their junction, appeared one continued village. For the permanent occupation of this important district, a strong stockade was built, called Fort Defiance, and another, called Fort Adams, on the St. Mary's, as an intermediate post, to connect it with Fort Recovery. The main body of the Indians had retired down the Maumee about thirty miles, to the foot of the rapids, where the British had recently built a new fort. Wayne sent a messenger proposing to treat, to which the Indians replied by asking delay for ten days. On receiving this answer, the army was at once put in motion. Two days they marched down the Maumee; a third was spent in reconnoitering the enemy, who were found encamped in a bushy wood, their left protected by the rocky bank of the river. The position of the Indians having been ascertained, the advance was resumed in the same order as before, the right flank of the legion leaning on the river, one battalion of the mounted volunteers on the left, another in the rear, and a strong detachment in front, to give notice when the enemy were found. As soon as the Indian fire was heard, the legion was formed in two lines, in the midst of a thick wood, the ground being covered with old fallen timber, prostrated in some tornado, a position very favorable to the enemy, since the mounted volunteers could hardly act. The Indians were in three lines, extending from the river at right angles within supporting distance of each other. They seemed, from the weight of their fire, to be endeavoring to turn the left flank of the legion, whereupon Wayne ordered the second line into position on the left of the first. He also directed

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 1794. the mounted volunteers to attempt to gain the enemy's rear by a circuitous route, and Captain Campbell, with the legionary cavalry, to push in between the Indians and the river, the ground there being somewhat more open. Orders, simultaneously given, for the first line to start the enemy from his covert at the point of the bayonet, were obeyed with such alacrity that, before the other troops could get into position, the Indians were completely routed. Wayne lost a hundred and seven men in killed and wounded. Neither the loss nor the number of the Indians was ever ascertained. The Indian corn-fields were ravaged close up to the British fort, and the establishment of M'Kee, the British Indian agent, was burned with the rest. It was the universal opinion in the army that the British had encouraged the Indians to fight. It was even believed that some of the militia from Detroit had been in the action; but that was utterly improbable. Some very tart correspondence passed between Wayne and the commander of the British fort, to whom a deserter had reported that Wayne intended to attack him, for which, indeed, the army was sufficiently ready, had a good excuse and opportunity occurred.

Three days after the battle, Wayne fell back to Fort Defiance. The defenses were completed, intermediate posts were established, garrisons were left in Fort Defiance and Fort Recovery, and, after a very successful campaign of ninety days, during which he had marched three hundred miles along a road out by the army, had gained a victory, driven the Indians from their principal settlement, destroyed their winter's provisions, and left a post in the heart of their country, Wayne returned with the legion into winter quarters at Greenville. The mounted volunteers, who had suffered severely from sickness, had been dismissed some time before.

The day fixed for the opening of the session of Congress was the fourth of November. Washington had <sup>CHAPTER VII</sup> hastened back from Bedford in order to be present; but 1794 it was two weeks before a quorum of the Senate was obtained.

While the Senate were waiting for a quorum, the House took up a report on the standing rules and orders made at the last session, but not acted upon. Hitherto there had been but one standing committee, that on Elections; the amended rules and orders provided for another on Private Claims, which already began to occupy no inconsiderable part of the time of the House. Hitherto it had been the custom to refer petitions of this sort to one or the other of the secretaries for report; but Hamilton, to whose share most of this business had fallen, had loudly complained of the burden. He had requested the adoption of some other organ of investigation; and hence this new standing committee.

The late insurrectionary movements in Western Pennsylvania formed the main subject of the president's speech: their origin, progress, and the means finally Nov. 13 adopted for their suppression. Among the causes of the extremity to which things had been carried, the speech alluded to certain "self-created societies" which had taken upon themselves to criticise and condemn the government, and to stimulate resistance to the laws, the president leaving it to the "calm reflection" of the people to determine whether the insurrection had not been fomented "by combinations of men, who, from an ignorance or perversion of facts, had disseminated suspicions, jealousies, and accusations of the whole government, careless of consequences, or forgetful that those who rouse can not always appease a civil convulsion."

Another important paragraph referred to the foreign



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policy of the government, which had been, so the speech declared, "to cultivate peace with all the world; to ob-  
1794. serve treaties with pure and absolute faith; to check every deviation from the line of impartiality; to explain what may have been misapprehended, and to correct what may have been injurious to any nation; and having thus acquired the right, to lose no time in acquiring the ability, to insist on justice being done to ourselves."

The recommendations of the speech were, a complete organization of the militia; further attention to fortifications; the promotion of friendly relations with the Indians by the establishment of public trading houses; and the adoption of some regular system for the final redemption of the public debt.

Though the leaders of the Republican opposition were by no means willing to identify themselves with the Democratic societies, they were not the less disinclined to give offense to allies so useful in undermining and breaking down the existing administration. In spite, however, of the efforts of Burr and Jackson, the Senate, in their answer to the president's speech, fully responded to his sentiments, giving to them, indeed, a more emphatic expression. "Our anxiety, arising from the licentious and open resistance to the laws in the western counties of Pennsylvania, has been increased by the proceedings of certain self-created societies, relative to the laws and administration of the government, proceedings, in our apprehension, founded in political error, calculated, if not intended, to disorganize our government, and which, by inspiring delusive hopes of support, have been instrumental in misleading our fellow-citizens in the scene of insurrection."

The answer of the House, as originally reported, took no notice of the president's allusion to the Democratic

clubs. Fitzsimmons proposed an amendment reprobating the "self-created societies," "which, by deceiving and inflaming the ignorant and the weak, may naturally be supposed to have stimulated the insurrection," "institutions not strictly unlawful, yet not less fatal to good order and true liberty, and reprehensible in the degree that our system of government approaches to perfect political freedom." In opposing this motion, Giles took special care to disclaim any connection whatever with the Democratic societies, an example followed by all the speakers on that side. He took care, also, to preface his speech with a high eulogium on the president. But he insisted that the term "self-created societies" involved all voluntary societies whatever; that the right of censure was sacred; and that the societies attacked would retort. Lyman, Nicholas, and M'Dowell opposed the amendment on similar grounds. On the other hand, it was urged by Smith of South Carolina, Tracy, and Dayton, that the question was not whether these societies were legal, but whether they were mischievous. If they were so, the House ought to declare it, and not, by silence, give an implied contradiction to the president's statements.

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At Murray's suggestion, Fitzsimmons modified his proposed amendment into a mere echo of the president's speech. "We can entertain no doubt that certain self-created societies and combinations of men, careless of consequences and disregarding the truth, by disseminating suspicions, jealousies, and accusations of the government, have had all the agency you ascribe to them in fomenting this daring outrage against social order and the authority of the law." To get rid of any specific allusion to their friends the Democrats, it was moved, on behalf of the opposition, to strike out "self-constituted

CHAPTER societies." On this motion a warm debate followed. It  
VII. was suggested by those in favor of retaining the words,  
1794. that, however the formation of political clubs might be justified in countries without any regular organ of public opinion, that here, where abundant means were provided for expressing public opinion in a constitutional way, they were quite out of place, and a sort of usurpation. "It has been argued," said Sedgwick, "that to censure these societies might be construed into an attack on the freedom of public discussion. He was sorry to see a disposition to confound freedom and licentiousness. Was there not an obvious distinction between a cool, dispassionate, honest, and candid discussion, and a false, wicked, seditious misrepresentation of public men and public measures? The former was within the province of freemen; it was, indeed, their duty; the latter was inconsistent with moral rectitude, and tended to the destruction of freedom and to the production of every evil that could afflict a community. No boundary, perhaps, could be accurately drawn by which the one might in all instances be subjected to punishment without endangering the other; nevertheless, that boundary was distinctly marked in the mind of every man correctly instructed in morals and politics.

"These societies," the origin of which he traced to Genet, "self-created, without delegation or control, not emanating from the people or responsible to them, not open in their deliberations, not admitting any but those of their own political opinions, permanent in their constitution, and of unlimited duration, had modestly assumed the character of popular instructors, guardians of the people, guardians of the government. Every man in the administration who had assented to its acts they had loaded with every species of calumny—slanders which

they knew to be such. They had not even spared that character supposed to have been clothed with inviolability—not the paltry inviolability of constitutional proscription, but an inviolability infinitely more respectable, founded on the public gratitude, and resulting from disinterested and invaluable services.”

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Sedgwick's impetuous attack roused the sensibilities of several of the Virginia members, but none ventured upon any positive vindication of the Democratic societies. Rutherford insisted that the president only alluded to combinations west of the mountains. Parker denied the influence of the Democratic societies in promoting the insurrection. Giles, whose chief distinction was his denunciatory style of eloquence, expressed great alarm at the idea of introducing denunciations into the House. He seemed to think that Sedgwick was treading in the steps of Robespierre, and endeavored to neutralize the effect of his speech by an insolent personal attack upon his style of oratory. Many of the members of Democratic societies had served in the militia against the insurgents, and he regarded such sweeping attacks upon them as very unfair.

The motion to strike out the words “self-created societies” was carried in committee forty-seven to forty-five. But the struggle was renewed in the House by Ames and Dexter on the one side, and Madison, Nicholas, and Baldwin on the other, and the vote of the committee Nov 27 was exactly reversed. The opposition, however, immediately rallied on a new motion to add a clause restricting what was said of self-created societies and combinations of men to such as existed in “the four western counties of Pennsylvania and parts adjacent,” and this amendment they carried by the casting vote of the speaker. It was attempted to offset this addition by

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VII. joining to it "countenanced by self-created societies else where;" but this was lost, forty-two to fifty. The 1794. amended amendment was then rejected, only nineteen rising in its favor, thus leaving the address as originally Nov. 28. reported. The matter was compromised the next day by inserting a paragraph declaring the great concern of the House "that any misrepresentations whatever of the government and its proceedings, either by individuals or combinations of men, should have been made, and so far have been credited as to foment the flagrant outrage which had been committed on the laws."

It was evident from this debate, and the votes taken in the course of it, that the opposition had lost ground in the House. Indeed, they had evinced great anxiety to avoid any division. But their weakness became still more manifest in an attempt on their side to amend the address. By way of answer to the president's exposition of his foreign policy, Madison proposed that the House declare their approval of "a policy in foreign transactions which never loses sight of the blessings of peace." But this phraseology seemed suspicious to the Federalists. Not only did it avoid any direct approval of the president's policy, but it might be understood to imply a doubt on the subject. To get rid of this ambiguity, it was moved to substitute "your" instead of "a," thus directly approving the policy of the president. This change was contested in a three days' debate, during which the ardent Nicholas disclosed every thing which the more cautious Madison had desired to conceal; and though the original phraseology was supported by Dayton and one or two others, who voted usually with the Federalists, Madison thought it most discreet to avoid a decision by withdrawing his motion.

Pending this ten days' debate on the address, the

House had already passed an act authorizing the continu-  
ance of Morgan's detachment at the scene of the late in-  
surrection. For the payment of the expenses incurred 1794.  
by the expedition, the sum of \$1,122,569 was appro-  
priated, besides \$100,632 for the support of Morgan's  
detachment. To fill up the void in the treasury, a tem-  
porary loan of two millions was authorized.

The subdued tameness of the opposition by no means  
came up to Jefferson's ideas. "With respect to the  
transactions against the Excise Law," so he wrote to De-  
Madison, "it appears to me that you are all swept away  
in the torrent of governmental opinions, or that we do  
not know what those transactions have been. We know  
of none which, according to the definitions of the law,  
have been any thing more than riotous. There was,  
indeed, a meeting to consult about a separation; but to  
consult on a question does not amount to a determination  
of that question in the affirmative, still less to the acting  
on such a determination; but we shall see, I suppose,  
what the court lawyers, and courtly judges, and would-  
be ambassadors will make of it. The Excise Law is an  
infernal one. The first error was to admit it by the  
Constitution; the second, to act on that admission; the  
third and last will be to make it the instrument of dis-  
membering the Union, and setting us afloat to choose  
what part of it we will adhere to. The information of  
our militia returned from the westward is uniform, that,  
though the people there let them pass quietly, they were  
objects of their laughter, not of their fear; that one thou-  
sand men could have cut off their whole force in a thou-  
sand places of the Allegany; that their detestation of  
the Excise Law is universal, and has now associated to  
it a detestation of the government; and that separation,  
which, perhaps, was a very distant and problematical

CHAPTER VII. event, is now near, and certain, and determined in the mind of every man. I expected to have seen some jus-

1794. tification of arming one part of the society against another; of declaring a civil war the moment before the meeting of that body which has the sole right of declaring war; of being so patient of the kicks and scoffs of our enemies, and rising at a feather against our friends; of adding a million to the public debt, and deriding us with recommendations to pay it if we can." In the midst of all this sympathy for the whisky rebels, the cause of the clubs was not forgotten. "The denunciation of the Democratic societies is one of the extraordinary acts of boldness of which we have seen so many from the faction of monocrats. It is wonderful, indeed, that the president should have permitted himself to be the organ of such an attack on the freedom of discussion, the freedom of writing, printing, and publishing." "I have put out of sight the persons whose misbehavior has been taken advantage of to slander the friends of popular rights, and I am happy to observe that, as far as the circle of my observation and information extends, every body has lost sight of them, and views the abstract attempt on their natural and constitutional rights in all its nakedness. I have never heard or read of a single expression or opinion which did not condemn it as an inexcusable aggression."

It seems a little extraordinary that Jefferson and that circle of his political friends whose opinions he thus conveyed to Madison were not willing to allow to the President and Congress of the United States, the chosen and constitutional organs of the people, that same "freedom of discussion, of writing, printing, and publishing," claimed so zealously for the democratic societies. Those societies might say what they pleased, might denounce

whom they pleased, might charge the president and Congress with designs no matter how atrocious, and those so denounced were to bear it all without any retort, lest, by warning the public against these societies, they should interfere with the right of public discussion! Had not Washington as much a right to denounce the Democratic societies as they had to denounce him and his cabinet? Was it not a reasonable retort, and a necessary means of self-defense?

But already these volunteer associations for the government of the country had experienced a blow more fatal than any that Washington could deal. The downfall of Robespierre had been speedily followed by the downfall of the Jacobin Club, the great instrument of his power. Not confining itself to denunciations merely, the Convention had first cut off the connection between the Paris club and the affiliated branches, and when this did not sufficiently answer, had turned the members out and locked the doors. Monroe, who had lately arrived in Paris, and who saw in the Convention the grand exemplar of republican wisdom, hastened to vindicate their proceedings in this respect, which might otherwise have appeared a little arbitrary, by a long historical dispatch, going to show that the club had interfered with the business of the government, and that the real question had been, which should have the direction of affairs, the Jacobins or the Convention. This dispatch arrived very seasonably. It went entirely to confirm the views taken by Washington and the Federalists, and the government hastened to publish it, though without Monroe's name. Of course, the republican wisdom of the French Convention was not to be disputed by the other side, and the Democratic clubs soon sunk into discredit and obscurity.



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1794. A project of Madison's for excluding foreign residents in America from an equal participation with citizens in commercial privileges, aimed against those British agents by whom a large part of the trade of the Southern States still continued to be carried on, resulted in a new naturalization act. A much larger stream of immigration was now setting into the United States than at any time since the Declaration of Independence. Many of the banished French nobility and many of the discontented Irish sought refuge there; and what with fear of foreign aristocrats and fear of foreign Democrats, both parties were willing to render naturalization more difficult. By the new act, the provisions of which still continue in force, the preliminary residence necessary to citizenship was extended to five years; a three years' previous declaration (to be made in some court of record) of intention to become a citizen was also required; and a residence for one year in the state where the naturalization should be had. The new citizen was also called upon to renounce forever all allegiance and fidelity to any foreign prince or state; and, if he had borne any title of nobility, he must also make an express renunciation of it.

When this latter provision was first suggested by Giles, it encountered, much to his disgust, a good deal of ridicule from some of the New England Federalists. Why require the renunciation of a mere title, which carried with it no privilege; a mere matter of courtesy which it might seem churlish to refuse, and especially so to require a formal renunciation of it from an unhappy exile who had lost at home, and, by the very act of becoming a citizen, renounced here all the privileges which his title might once have carried with it. The whole proceeding was at once nugatory and ridiculous. The very judge who administered the oath or pledge

of renunciation might the next moment address the newly-admitted citizen as count, marquis, or my lord ; and what was the help for it? Why not, said Dexter, require the new citizen to renounce his connection with the Jacobin Club, should he happen to be a member of it? Why not require him to renounce the pope? Priestcraft he thought to be quite as dangerous as aristocracy.

By presently calling for the yeas and nays, Giles placed those who had thus ridiculed his proposition in an awkward dilemma. They must now submit to the mortification of voting for it, or else allow themselves to be held up to the nation as friends of aristocracy and lovers of titles. As to this matter, Sedgwick and Dexter stood upon very delicate ground. Both represented districts in which parties were very equally divided. At a recent election there had been no choice, and new trials were soon to be had. By way of forcing Giles to abandon his call for the yeas and nays, Dexter moved an additional amendment, that in case the applicant for citizenship were a slave-holder, he should renounce, along with his titles of nobility, all his claim, right, and title as an owner of slaves. This motion produced a very great excitement among the Southern members. Rutherford objected to it that it went to wound the feelings and alienate the affections of six or eight states of the Union. He thought Giles's motion ought to be adopted, because it would highly gratify the people of America; but he was quite willing to give up the yeas and nays. M'Dowell of North Carolina declared the proposed amendment to be an indirect attack upon the Constitution and on those members who held slaves. It tended to irritate not only the Southern members, but thousands of good citizens in the Southern States, affecting, as it did, the property they

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CHAPTER VII. had acquired by their industry. Who dared to say that

men holding slaves were unfit for office in republican  
1795. governments! Let the House decide whether its Southern members did not partake more of the republican spirit than those from the Eastern States! What right had Congress to exclude a particular class of people from holding the same property with others? When thousands of slave-holders had so lately been slaughtered and thousands had fled for refuge to this country, where the masters of slaves could only keep them in peace with the greatest difficulty, was this the time for such inflammatory motions?

Giles, who saw the awkwardness of voting in the same breath against titles of nobility and in favor of slave-holding, professed his readiness to give up the yeas and nays. Holding property to be sacred, he never could consent to prohibit immigrants from holding slaves. As to titles of nobility, they were but a name, and nobody was obliged to give them up unless he wanted to become an American citizen.

Lee came to the aid of his Northern friends in a very sarcastic speech. The mischiefs, so he argued, experienced from orders of nobility did not flow from the names by which those orders were distinguished, but from their privileges as to property and political rights. Apart from those privileges, titles were mere empty gew gaws. According to his colleague (Giles), the reason why a foreign nobleman could not become a good citizen was, the nature of his education, the superiority which he had been accustomed to exercise over his fellow-men, the servile court he had been used to receive. Apply this same reasoning to the existing relation of master and slave in the Southern States—one rather more objectionable than even that of lord and vassal—and it would go

far to prove that the people of those states were not qualified to be members of a free republic. But this they all knew was not the fact. . Though the representatives from Virginia did hold slaves, their hearts, he was sure, glowed with as warm a zeal for the equal rights and happiness of man as those of the gentlemen from parts of the Union where this degrading distinction did not exist. Still he did not think that the citizens of the South could justly assume a superiority in political virtue over their fellow-citizens of the East. Not to be behind them was sufficient glory. The demand for the yeas and nays had given a certain importance to a proposition which before he had considered as utterly frivolous. It was calculated, he hoped not intended, to spread an alarm that aristocracy was coming to swallow us up, and to hold up certain gentlemen who had opposed the motion as the friends of aristocracy. He felt it to be his duty to discountenance any measure tending to excite groundless and unjust alarms, suspicions, and jealousies; and, though personally very indifferent to the matter, he should on that account vote against the original motion.

Smith of Maryland was desirous that the original motion might be allowed to pass without opposition. "The gentlemen from the Eastern States, who knew the republican character of their constituents, and how independent every man there is, both in his temper and his circumstances, had slighted the amendment as unnecessary. Gentlemen from the Southern States, on the other hand, say that they have reasons for apprehension. Why will not the Eastern members indulge us in this trifle?" The matter seemed likely to be thus arranged. Dexter had withdrawn his motion in expectation that the call for the yeas and nays would be dropped, when

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Nicholas broke out with great fury, declared that he "thoroughly despised" Dexter's motion, and insisted on having the yeas and nays. Dexter then renewed his motion, which was lost, twenty-eight to sixty-four. Giles's motion was carried, and the renunciation of titles of nobility incorporated into the bill, fifty-eight to thirty-two. At the new election in his district Dexter failed to be chosen, partly, perhaps, on account of his vote on this occasion.

The leading measure of the session was an act providing for the gradual redemption of the public debt, founded on a plan furnished by Hamilton, but varying from it in several particulars. There had been already purchased up, under the provisions made for that purpose, \$2,268,022 of the public stocks, which amount stood in the name of the commissioners for the reduction of the public debt, the interest upon it being applicable to further purchases.

Exclusive of these stocks, the total amount of the public debt was as follows: Foreign debt (including \$2,024,900 still due to the French government, also \$1,128,599 of the two millions authorized to be borrowed for the use of the commissioners), \$14,599,129; six per cent. stock bearing a present interest, \$28,165,568 deferred six per cent. stock, \$13,651,365; three per cent. stock, \$18,972,980; unsubscribed debt estimated at \$1,501,175; making a total of \$76,950,218. To this was to be added about five millions of temporary loans, including the \$1,400,000 still due on the subscription to the bank, against which, however, might be offset the bank stock, worth two millions at par, and more in the market; also the balance in the treasury, and the outstanding duty bonds. The foreign debt fell due by installments at short periods; the six per cent. stocks could only be

paid at the rate of eight dollars a year on every hundred, interest included; the three per cents. were redeemable at the pleasure of the government. The annual revenue, looking to past receipts, was estimated at six millions and a half, and the expenditures, including some three millions and more for interest, at \$5,700,000; but a considerable part of this revenue was derived from duties and taxes laid for limited periods. CHAPTER  
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By the new act the entire management of the public debt was taken from the Treasury Department and vested in the Commissioners of the Sinking Fund, to whose use was appropriated so much of the annual income from the impost, tonnage, and excise as might be necessary to pay the interest upon all descriptions of the public debt; also the remaining installments due to the bank, and that portion of the six per cent. stocks annually payable by the contract. To insure these payments, the temporary duties on imposts were made permanent, and the other temporary taxes were continued till the 1st of March, 1801. These payments, thus made, would complete the redemption of the six per cent. stocks within twenty-three years from the commencement of the process: the six per cents., on which interest was already payable, in 1818; the deferred six per cents., in 1824. While these payments were thus going on, it was hoped to extinguish the three per cents. by purchases on the part of the sinking fund, to the use of which were appropriated the interest on the stocks held by the commissioners, the surplus of the bank dividends above the interest on the bank debt, such sums as might accrue from the sale of public lands, the proceeds of old debts to the government originating before the adoption of the Constitution, and all unexpended surpluses of appropriations not reappropriated at the ensuing session. By applying to the extinction of the foreign debt the means of redemption

CHAPTER VII. successively set free in 1818 and 1824, it was calculated that the whole debt might be extinguished in 1826.

1795. Previous to the final passage of this act, which, by providing for the discharge of the entire debt, gave completion to the funding system, Hamilton had resigned his office. He had for some time contemplated retirement, but had delayed it first to give Congress an opportunity to investigate his official conduct, and afterward on account of the threatening appearance of public affairs. During his six years of public service, he had placed the fiscal concerns of the United States on a solid foundation—that, indeed, upon which they have ever since rested. The investigations into his conduct, dictated by the suspicions of his enemies, had resulted altogether to his advantage. His whole scheme being now complete, and his official integrity thoroughly vindicated, he could safely leave to the administration of others that system which his genius had organized. Not possessing, like his Democratic rivals, Jefferson and Madison, the advantage of a paternal inheritance cultivated by slaves, Hamilton resumed the practice of the law. The inadequacy of his salary, especially as he had a numerous family to provide for, had indeed formed his prevailing reason for giving up his office. Knox, for similar pecuniary reasons, had resigned a few weeks before. His post was given to Timothy Pickering, and that of Secretary of the Treasury to Oliver Wolcott, who had served under Hamilton since the first organization of the department, first as auditor, and then as controller. Joseph Habersham, of Georgia, succeeded Pickering as post-master general.

The appropriations for the service of the current year amounted to near three millions and a half, to meet which, in addition to the interest on the debt, six millions and a half of dollars would be necessary—an amount to which the revenue hardly reached.

## CHAPTER VIII.

JAY'S TREATY. FIRST SESSION OF THE FOURTH CONGRESS. TREATIES WITH THE NORTHWESTERN INDIANS, WITH ALGIERS, AND SPAIN. DISCUSSION AS TO THE TREATY-MAKING POWER. TENNESSEE. AFFAIRS OF THE STATES.

ON his arrival in England, Jay had been treated with great courtesy. Every disposition had been expressed by Lord Grenville, then at the head of foreign affairs, to bring the negotiation to a successful issue; but so opposite on several points were the views entertained by the two nations as to their rights and interests, that to accomplish this result was no easy matter.

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The Americans complained that, contrary to an express provision of the treaty of peace, a large number of negroes had been carried off by the evacuating British armies; and for the loss thus inflicted on the owners compensation was demanded. They complained, also, of the detention of the Western posts, to which mainly the protracted hostility of the Northern Indians was ascribed. They alleged numerous invasions of their neutral rights, not only under the orders of council, issued as instructions to the British cruisers, but in the capture, and the condemnation by the local admiralty courts, of numerous vessels upon pretenses false or frivolous. Other topics of complaint, not less serious, were the impressment of seamen from on board American vessels, and the exclusion of American shipping from the trade to the British West Indies.

According to the British interpretation of the treaty



**CHAPTER** of peace, the prohibition as to negroes did not apply to  
**VIII** any such as had been set at liberty in the course of the  
**1794.** war under proclamations of the British commanders ;  
and as those carried away were all of that sort, any compensation for them was refused.

The subject of impressment was found exceedingly difficult on more accounts than one. The only adequate security to American sailors against the danger of impressment seemed to be a renunciation on the part of the British of the right to press any body from American vessels. But this the British would not agree to. The number of British sailors in the American merchant service was already large. Such a provision would greatly increase it. Obligated as she was in the present struggle to make the greatest efforts, Great Britain could not, at least would not, give up so important a resource for manning her fleet. It was maintained on the American side that naturalized citizens had the same rights with native-born Americans, and ought equally to be protected against impressment. According to the British doctrine, no man had a right to renounce his allegiance, nor could British-born sailors thus withdraw themselves from the service of their country. The claim of the Americans to an equal participation in the trade of the British West Indies was regarded by England as quite unreasonable, calling upon her, as it did, to renounce the long-settled principles of her commercial system ; nor could Jay obtain any concessions on this point except under very onerous conditions.

But the matters more immediately threatening to the peace of the two countries were the disputed questions of neutral rights and the detention of the Western posts. Judging it best to arrange these points, though obliged to yield as to the others, or to leave them for future ne

gotiation, Jay was induced to sign a treaty, defective in some points and objectionable in others, but the best that could be obtained.

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This treaty provided for constituting three boards of commissioners: one to determine the eastern boundary of the United States, by fixing on the river intended by the treaty of peace as the St. Croix; another to ascertain the amount of losses experienced by British subjects in consequence of legal impediments to the recovery of British anti-Revolutionary debts, which amount, so ascertained, was to be paid by the government of the United States; and a third to estimate the losses sustained by American citizens in consequence of irregular and illegal captures by British cruisers, for which there existed no adequate remedy in suits at law, these losses to be paid by the British government. In consideration of the arrangement of the question of British debts, the Western posts were to be surrendered on the first of June, 1796; the present residents in the neighborhood to have the option of removing or of becoming American citizens. To give both nations an equal chance of the Indian traffic, there was to be a mutual reciprocity of inland trade and intercourse between the North American territories of the two nations (including the navigation of the Mississippi), the British also to be admitted into all the American harbors, with the right to ascend all rivers to the highest port of entry. But this reciprocity did not extend to the territory of the Hudson Bay Company, nor to the admission of American vessels into the harbors of the British North American colonies, nor to the navigation of the rivers of those colonies below the highest port of entry. No objection of alienage was to interfere with the possession of land within the dominions of either power, by subjects or citizens of the other, as existing at

CHAPTER VIII. the date of the treaty, nor with its regular descent ; nor, in the event of any war or rupture, was there to be any  
1794. confiscation by either party of debts, or of public or private stocks, due to or held by the citizens or subjects of the other.

These first ten articles were declared to be perpetual ; the other eighteen, in the nature of a treaty of commerce and navigation, were limited to two years after the termination of the existing war.

They provided for the admission of American vessels into British ports in Europe and the East Indies on terms of equality with British vessels ; but no stipulation could be obtained as to the East Indian coasting trade, or as to the trade between Europe and the British East Indies, participation in which was left to rest, as heretofore, on the contingency of British permission. The right was also reserved to the British to meet, by countervailing enactments, the existing discriminations in the American tonnage and import duties. The Americans might trade to the British West Indies in vessels not exceeding seventy tons in burden ; but this privilege could only be purchased by renouncing the right, during its continuance, to transport from America to Europe any of the principal colonial products. British vessels, with their cargoes, were to be admitted into American ports without any further addition to the existing discriminating duties, and on the terms of the most favored nation.

Privateers were to give bonds, with security, to respond any damages they might commit against neutrals, and, in case of the condemnation of any vessel as prize, an authenticated copy of the proceedings was to be furnished to her commander. In case of the seizure of vessels on suspicion of having enemy's property on board,

the examination was to be as speedy as possible, and the vessel, with the neutral part of her cargo, was to be dismissed. The list of contraband articles was to include, besides ammunition and warlike implements, all articles serving directly for the equipment of vessels, except unwrought iron and fir plank. Provisions and other articles not usually contraband, but becoming so under peculiar circumstances, if seized, were not to be confiscated, but were to be paid for at their full value. No vessel attempting to enter a blockaded port was to be captured unless she had first been notified and turned away. Neither nation was to allow enlistments within its territory by any third nation at war with the other; nor were the citizens or subjects of either to be allowed to accept commissions from such third nation, or to enlist in its service; and, should they do so, they might be treated as pirates. Ships of war of the contracting parties were to be mutually admitted and hospitably received in the ports of the other; such ships of war, as well as privateers, upon showing their commissions, to be free, with their prizes, from any claim of search, seizure, or jurisdiction; but they were to depart as speedily as might be. Privateers of nations at war with either of the parties were not to be armed in the ports of the other, nor allowed to sell their prizes there, nor to purchase more provisions than might be necessary to carry them to the nearest port of their own nation. No shelter was to be given to armed vessels of any third nation which had made prize of vessels belonging to either contracting party, and, if forced in by stress of weather, such vessels should be compelled to depart as soon as possible; but neither this nor any other article was to interfere with the obligation of pre-existing treaties. Neither nation was to allow vessels or goods of the oth-

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**CHAPTER** er to be captured in any of its bays, ports, or rivers, or  
**VIII** within cannon-shot of its coast. In case of rupture or

1794. war, the citizens or subjects of either nation resident in the territories of the other were to be allowed to remain and to continue their trade, so long as they behaved peaceably. They might, however, be ordered off, in case of suspicion, on twelve months' notice, or without any notice, if detected in violations of the laws. No reprisals were to be ordered by either party till satisfaction had first been demanded. Fugitives from justice, charged with murder or forgery, were to be mutually given up.

1795 While Congress was still sitting, information had been received of the conclusion of a treaty, but the treaty itself did not arrive till several days after the end of the session. In anticipation of that event, a circular had been issued for a special session of the Senate, and that  
 June 8. body came together accordingly. The changes in the Senate since the conclusion of the late session were, on the whole, favorable to the Federalists. In Elijah Paine of Vermont, and Humphrey Marshall of Kentucky, they had gained two additional members, the votes of those two states being now divided. Robert Morris of Pennsylvania had been superseded by William Bingham, an eminent merchant, and Ralph Izard of South Carolina by Jacob Read, but these new members, like their predecessors, were Federalists. Trumbull, the former speaker of the House, took his seat as a senator from Connecticut. In the substitution of Timothy Bloodworth of North Carolina for Benjamin Hawkins, the Federalists might be considered as losing a vote. Virginia was represented by Stevens T. Mason and Henry Tazewell, who had taken their seats during the late session in place of Monroe and Taylor, both of whom had resigned.

June 24 After a fortnight's debate in secret session, the Senate,

by a vote of twenty to ten, precisely a constitutional majority, advised the ratification of the treaty, that article excepted which related to the West India trade. 1795.

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Apart from the very questionable policy of purchasing so limited a concession at so great a sacrifice, there was a particular objection to the terms of that arrangement which made it wholly inadmissible. Among the articles the transportation of which to Europe the Americans were required to renounce, besides sugar, molasses, coffee, and cocoa, was cotton. Neither Jay nor Grenville seems to have been aware that cotton had lately become an article of export from the Southern States. This subject, therefore, it was necessary to reserve for further negotiation, along with the unsettled question of impressments. The senators who voted against this conditional ratification were the four from Virginia and North Carolina, Robinson of Vermont; Langdon of New Hampshire, Burr of New York, Brown of Kentucky, Butler of South Carolina, and Jackson of Georgia.

Though well aware of the deficiencies of the treaty, the president, before submitting it to the Senate, had made up his mind in favor of ratifying. All the members of his cabinet, Randolph excepted, who seemed somewhat doubtful, were very decidedly of the same opinion. But the recommendation of the Senate, that a clause be added suspending the operation of the West India article, raised some nice questions and led to some delay. Would it be necessary to lay that additional article before the Senate? or could the treaty be finally ratified before that article was added to it? A much more serious difficulty grew out of the arrival of news, not official, indeed, but sufficiently authenticated to be entitled to credit, that the British order for the seizure of provision-ships, withdrawn previous to the late negotiation,

CHAPTER VIII. had, in consequence of a new scarcity in France, been again renewed. The circumstances under which provi-

1795. sions might be regarded as contraband had been one of the points as to which Jay had been unable to come to any agreement with the British negotiators. According to the American view, provisions were contraband only when on their way to a besieged and blockaded city. The British claimed a much more extensive, but not very definite right of seizure, whenever it might operate to distress their enemies. Leaving that point unsettled, the treaty had merely provided that, when seized, they should not be confiscated, but paid for. Randolph dwelt with emphasis on the new British order, in the hope, apparently, of shaking Washington's determination to ratify. Should the treaty be ratified while that order remained in force, it might be regarded as a concession on the part of America of the right of the British to issue it. Randolph was in favor of ratifying only on condition of the repeal of the order. It was suggested by Hamilton, consulted on the occasion at the president's request, to ratify, but to withhold the exchange of the ratifications till the order was repealed. No final decision had been

July 15 come to when the president left for Mount Vernon, Randolph being directed to prepare a memorial on the subject of the provision order, to be forwarded to the president for his approval, in season to be transmitted by Hammond, the British minister, who was about returning home. Instructions were also to be prepared for the continuance of the negotiation as to the unsettled topics.

The Senate had removed the seal of secrecy from their proceedings, but had forbidden any publication of the treaty itself. Statements, however, as to its contents had begun to appear, accompanied by very malignant comments. In order to prevent hasty conclusions, found-

ed on partial views, and wishing to hear the opinions of the people, Washington had directed the whole treaty to be published. But in this he had been anticipated. On 1795 the same day that this direction was given, a full abstract had appeared in the *Aurora*, followed, a day or two after, by a perfect copy, furnished by Mason of the Senate under his own name. CHAPTER  
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Ever since the arrival of news that a treaty had been formed, there had not been wanting strong symptoms in certain quarters of a disposition to condemn it beforehand and at all events. The violent partisans of France looked with very jealous eyes upon any arrangement whatever with Great Britain. No sooner did the abstract of the treaty make its appearance, than a loud outcry was raised against it, as no better than a pusillanimous surrender of American rights, and a shameful breach of obligations to France. The temper of the populace of Boston had been exhibited a few days before, June 20 in a night attack upon a vessel from Halifax, upon a suggestion by the French consul that she was a British privateer. This supposed privateer, which turned out, however, to be an innocent commercial vessel, was plundered of her cargo, towed into the stream, and, with her masts cut away, was set on fire, and left afloat, to the imminent danger of all the shipping in the harbor. This, however, was going rather further than any responsible person was willing to answer for. Even the *Boston Chronicle*, the organ of the Massachusetts opposition, expressed a doubt whether, under a free government, such riots could ever be "fully justified."

A day or two after the arrival of the abstract of the treaty at Boston, some of the active leaders of the opposition procured a call for a town meeting to take the subject into consideration. At this meeting the treaty



**CHAPTER** was denounced as not containing one single article honorable or beneficial to the United States. A vote of dis-  
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1795. approval was passed unanimously, and a committee of fifteen was appointed to state objections in an address to the president. This committee reported no less than twenty objections, which were agreed to without debate, and the address to the president was immediately dis-

July 13. patched by express, under cover of a letter from the town magistrates. The more moderate and rational part of the inhabitants had made no opposition to these proceedings, except some little demur as to undertaking in town meeting to exercise the functions of the Senate. Amée, in a private letter, very freely expressed his indignation and contempt at "the blindness and gullibility of the rich men, who had suffered themselves to be made tools of on this occasion" by the leaders of the opposition.

The election for governor coming on in New York during Jay's absence, he had been supported by the Federalists for that office. Clinton having declined a reelection, Yates, the chief justice of the state, had been adopted as a candidate in his stead. But the majority in favor of Jay was decisive; and having, on his return home, resigned his post of Chief Justice, he had just entered upon the office of governor. This recent triumph of the Federalists served to aggravate the opposition; and no sooner had news of the Boston town meeting reached New York, than a violent anonymous hand-

July 13. bill was circulated, calling upon the citizens to meet, two days after, in front of the City Hall, to join the people of Boston in expressing detestation of the treaty. By way of antidote to this inflammatory appeal, at a private meeting of merchants, an address to the public was agreed to. These merchants declared themselves unable to discover in the treaty those "hideous features"

so much complained of; and they recommended calm CHAPTER  
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At the time appointed, a great meeting assembled in July 18. front of the City Hall. The friends of the treaty appeared in strength, and succeeded in electing a chairman. A motion was then made to adjourn to some place more convenient for discussion; but this was opposed on the ground that, as the president might ratify the treaty at any moment, an instant decision was necessary. Such was the argument of Brockholst Livingston, son of the late Governor Livingston, of New Jersey, and brother-in-law of Jay, who now came forward as a leader of the opposition. The whole of that influential family, with Chancellor Livingston at their head, out of enthusiasm for France, or for some more personal reasons, had recently joined that side in politics. Hamilton spoke in favor of adjournment. Already the meeting had become turbulent, when the confusion was increased by the arrival of an excited party, which had first burned the treaty on the Battery, and had then marched up Broadway, bearing the French and American flags. Stones were thrown at Hamilton, one of which struck him in the forehead, but glanced off without much injury. The question being taken on a motion to leave the decision on the treaty to the president and Senate, both sides claimed a majority. A motion was then made to appoint a committee of fifteen, to report two days after; and some one present, without any reference to the chairman, read off a list of names, and calling for a vote, declared them to be carried. By this time, indeed, the meeting had become so tumultuous that all the friends of peace and order thought it best to withdraw.

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At the adjourned meeting nobody attended except the enemies of the treaty. After attempting, by a new vote, to confirm their former irregular appointment, the committee of fifteen, of which Brockholst Livingston was chairman, reported twenty-eight condemnatory resolutions, all of which were agreed to without opposition.

These resolutions, while expressing great confidence in the president's wisdom, patriotism, and independence, were equally confident that his own "good sense" must induce him to reject the treaty, "as invading the Constitution and legislative authority of the country; as abandoning important and well-founded claims against the British government; as imposing unjust and impolitic restraints on commerce; as injurious to agriculture; as conceding, without an equivalent, important advantages to Great Britain; as hostile and ungrateful to France; as committing our peace with that great republic; as unequal toward America in every respect; as hazarding her internal peace and prosperity; and as derogatory from her sovereignty and independence."

By way of offset to these proceedings, the New York Chamber of Commerce adopted counter resolutions, expressing their opinion that the treaty contained as many features of reciprocity as, all things considered, could be reasonably expected; and that the arrangements for the surrender of the Western posts, for the adjustment of British debts, for compensation for spoliations and their prevention in future, were wise and beneficial; whereas, if the treaty were rejected, war, with all its calamities, might reasonably be apprehended. Esteeming the ratification expedient, they were still content, however, to leave the decision, in full confidence, where the Constitution had placed it.

The popular feeling in Philadelphia had been already foreshadowed in an attempt, on the fourth of July, which had come near producing a serious riot, to burn Jay 1795. and the ratifying senators in effigy. The public meetings in Boston and New York were soon followed up in that city also. The treaty was condemned in like summary manner, and a committee of fifteen was appointed, among whose members were Chief Justice M'Kean, Alexander J. Dallas, and Muhlenburg, the late speaker of the Federal House of Representatives, to convey the sentiments of the meeting in an address to the president. According to Wolcott's account, in a letter to Washington, then at Mount Vernon, the adjourned meeting consisted of some fifteen hundred, not half of whom took any part in the proceedings, most of those who did so being of the ignorant and violent class. Among the leaders mounted upon a stage were M'Kean, Dallas, Muhlenburg, Swanwick, representative elect to Congress from the city of Philadelphia, and several other influential persons. The memorial was read twice, and agreed to without debate. The treaty was then thrown to the populace, who placed it on a pole, and proceeded to the house of the English minister, before which they burned it, with huzzas and acclamations, a ceremony repeated before several other houses.

While these manifestations broke out at the north, the city of Charleston gave indications equally decisive of the state of feeling there. John Rutledge, chief justice of the state, denounced the treaty, at a public meeting, as totally destitute of a single article worthy of approval. He even went so far as to reproach Jay with stupidity, if not corruption, in having signed it. He was followed by Christopher Gadsden, another Revolutionary hero, very much in the same strain. A ballot

CHAPTER VIII. was then opened for a committee of fifteen, to report at a subsequent meeting. Upon this committee, besides

1795. John Rutledge and Gadsden, were Edward Rutledge, Ramsey, Tucker and Burke, late representatives in Congress, and William Johnson, afterward a judge of the Supreme Court of the United States. Charles C. Pinckney was nominated upon it, but took no part in

July 22. its proceedings. The committee reported, a few days after, with caustic criticism on most of the articles of the treaty, and recommended a memorial to the president not to ratify it. Charles Pinckney, always active in the opposition, though he had failed to be elected on the committee, took care to signalize his zeal in a vehement and abusive speech, winding up with a motion to request the president to take steps to have Jay impeached. While these more regular proceedings were going on, the populace performed their part by trailing the British flag through the streets, and burning it before the consul's door. What made John Rutledge's share in these proceedings the more embarrassing was that, on Jay's resignation of the post of chief justice, the president had tendered that place to him. He had agreed to accept it; and the official letter of the Secretary of State, announcing his appointment, arrived at Charleston two days after his violent speech.

The example thus set in the principal towns of the Union was soon followed in every quarter. Many took part in these proceedings of whom such a course was  
Aug. 2. hardly to have been expected. A meeting, held at Wilmington, at which Cæsar Rodney made a violent speech against the treaty, was followed up by a report in the same spirit, presented by a committee, of which John Dickinson acted as chairman.

In consequence of these violent demonstrations of feel-

ing, Washington resolved, though at great private inconvenience, to return immediately to Philadelphia, in order to have, in all steps to be taken, the advice and assistance of all his cabinet. "I view the opposition," so he wrote to Randolph in the letter announcing this intention, "which the treaty is receiving from the meetings in different parts of the Union in a very serious light; not because there is more weight in any of the objections which are made to it than was foreseen at first, for there is none in some of them, and gross misrepresentation in others; nor as respects myself personally, for this shall have no influence on my conduct, plainly perceiving, and I am accordingly preparing my mind for it, the obloquy which disappointment and malice are collecting to heap upon me. But I am alarmed at the effect it may have on, and the advantage the French government may be disposed to make of, the spirit which is at work to cherish a belief in them that the treaty is calculated to favor Great Britain at their expense. Whether they believe or disbelieve these tales, the effect it will have upon the nation will be nearly the same; for, while the animosity between the two nations exists, it will be their policy, no matter at whose expense, and it is to be feared will be their conduct, to prevent us from being on good terms with Great Britain, or her from deriving any advantage from our trade which they can hinder, however much we may ourselves thereby be benefited. To what length this policy and interest may carry them is problematical; but when they see the people of this country divided, and such a violent opposition given to the measures of their own government, pretendingly in their favor, it may be extremely embarrassing, to say no more of it.

"I have never, since I have been in the administration of the government, seen a crisis which, in my judg-

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ment, has been so pregnant with interesting events, nor one from which more is to be apprehended, whether viewed

1795. from one side or the other. From New York there is, and I am told will further be, a counter-current; but how formidable it will appear I know not. If the same does not take place at Boston and other towns, it will afford but too strong evidence that the opposition is, in a manner, universal, and would make the ratification a very serious business indeed. As it respects the French, even counter-resolutions would, for the reason I have already mentioned, do little more than weaken, in a small degree, the effect the other side would have."

July 31. In another letter, two days after, expressing his intention not to set out for Philadelphia before receiving answers to some previous letters, he made the following additional remarks: "To be wise and temperate, as well as firm, the present crisis most eminently calls for. There is too much reason to believe, from the pains that have been taken before, at, and since the advice of the Senate respecting the treaty, that the prejudices against it are more extensive than is generally imagined. This I have lately understood to be the case in this quarter, from men who are of no party, but well disposed to the present administration. How should it be otherwise, when no stone has been left unturned that could impress on the minds of the people the most arrant misrepresentation of facts, that their rights have not only been neglected, but absolutely sold; that there are no reciprocal advantages in the treaty; that the benefits are all on the side of Great Britain; and, what seems to have more weight with them than all the rest, and to have been most pressed, that the treaty is made with the design to oppress the French, in open violation of our treaty with that nation, and contrary, too, to every principle of grat-

itude and sound policy? In time, when passion shall have yielded to sober reason, the current may possibly turn; but, in the mean while, this government, in relation to France and England, may be compared to a ship between the rocks of Scylla and Charybdis. If the treaty is ratified, the partisans of the French, or, rather, of war and confusion, will excite them to hostile measures, or, at least, to unfriendly sentiments; if it is not, there is no foreseeing all the consequences which may follow, as it respects Great Britain."

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"It is not to be inferred from hence that I am disposed to quit the ground I have taken, unless circumstances more imperious than have yet come to my knowledge should compel it; for there is but one straight course, and that is, to seek truth, and pursue it steadily. But these things are mentioned to show that a close investigation of the subject is more than ever necessary, and that there are strong evidences of the necessity of the most circumspect conduct in carrying the determination of government into effect, with prudence as it respects our own people, and with every exertion to produce a change for the better from Great Britain

"The memorial"—a rough draft of which had been forwarded by Randolph—"seems well designed to answer the end proposed, and by the time it is revised and new dressed, you will probably have seen all the objections against the treaty which have any real force in them, and which may be fit subjects for representation in the memorial or in the instructions, or both. But how much longer the presentation of the memorial can be delayed without exciting unpleasant sensations here, or involving serious evils elsewhere, you, who are at the scene of information and action, can judge better than I."

Already, indeed, among the friends of the treaty, very



CHAPTER unpleasant sensations had begun to be excited at the de-  
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1795. complained of the strange and mysterious behavior of Randolph, who alone possessed Washington's entire confidence on the subject. Randolph, in a pamphlet which he afterward published, endeavored to prove that, prior to the great outcry against the treaty, he had so far prevailed as to bring Washington to the determination not to ratify except conditionally, on the repeal of the provision order. However that might have been, Washington's confidence in Randolph was destined to come to a sudden end, and the treaty to be ratified without condition or further delay.

Fauchet's private dispatch, No. 10, quoted already in giving an account of the whisky insurrection, had been intercepted on its way to France by a British cruiser, and, through Lord Grenville, had been transmitted to Hammond, the British minister at Philadelphia. Ascribing the delay in the ratification of the treaty to Randolph's influence, Hammond communicated this dispatch to Wolcott, as going to show what intrigues the Secretary of State had carried on with the late French minister, whose successor had arrived, in the person of M. Adet, about the time of the submission of the treaty to the Senate. Wolcott consulted with Pickering and Bradford, and the result was a request to the president to return with all speed to Philadelphia.

Aug. 11. Immediately upon his arrival, the intercepted dispatch

Aug. 12. was communicated to him. The next day a cabinet council was held, at which the question, What should be done with the treaty? was discussed, not without some warmth. Not content with insisting upon the repeal of the provision order as a preliminary to ratification, Randolph now took the ground that the treaty ought not to

be ratified at all pending the present war between En-  
gland and France. The other members of the cabinet  
insisted upon immediate ratification, with a strong me-  
morial against the provision order. In favor of this  
course Washington decided, and the ratification was  
signed two days after. The president considered it a part  
of Randolph's business to complete the memorial, so long  
in his hands, and the instructions for further negotia-  
tions. This being done, and the copies of the treaty  
countersigned by Randolph, Washington presented to  
him, in presence of the other cabinet officers, the original  
intercepted dispatch, with a request to read it, and to  
make such explanations as he might think fit. Having  
read over the whole document, Randolph commenced  
commenting upon it, paragraph by paragraph, though  
the greater part contained little or nothing in which he  
was involved. It was observed with surprise that he  
expressed no indignation at the style in which Fauchet  
spoke of the "tariff" which regulated the consciences  
of certain "pretended patriots," in which class he was  
evidently himself included. As to the "overtures" men-  
tioned as particularly described in No. 6, and in a way  
to imply that Randolph and his brother patriots had  
asked for money, he could not tell, he said, what was  
referred to. He recollected, indeed, having been inform-  
ed that Hammond and other persons were contriving  
measures in New York against Governor Clinton, the  
French republic, and himself, and that he had inquired  
of Fauchet whether he could not, by his flour contract-  
ors, provide the means of defeating their machinations.  
Perhaps No. 6 alluded to that. He insisted, howev-  
er, that he had never received nor asked for money  
for himself or others, and had never made any improper  
communications to Fauchet of the measures of govern-

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CHAPTER VIII. ment. He proposed to put his further observations in writing; and, as he perceived how unsatisfactory his

1795. explanations were, he tendered his resignation, which he made the same day by letter, requesting that the dispatch might be kept secret till he should be able to prepare his explanations, for which purpose he proposed to pay a visit to Fauchet, then at Newport, and about sailing for France. Randolph obtained from Fauchet a request to his successor to furnish from the archives of the mission the extract from his dispatch, No. 6, to which reference had been made in the intercepted dispatch; and this he presently published, as already quoted, together with a long explanatory letter from Fauchet. According to this letter, drawn up apparently without having No. 6 at hand, and which it is impossible to reconcile with that document, the conversation occurred at the ambassador's country house, near Philadelphia. With an air of great distress, Randolph expressed his fears of an approaching civil war, and his apprehensions that the English were secretly fomenting the insurrection. Fauchet had previously mentioned his suspicions as to a meeting between Hammond and others, held about that time in New York, with objects supposed to be hostile to Governor Clinton, to the French republic, and to Randolph's influence with the president. Randolph suggested that certain measures might be adopted at that meeting intended to embarrass the American government by stimulating the insurrection; and, since the French republic was interested in this matter, could not Fauchet assist in obtaining some information as to what was passing? By means of the contracts for supplying flour to France, the French minister had numerous correspondents; three or four persons among them might, by talents, energy, and some influence, procure

he necessary information, and save America from a civil war by proving that England interfered in the troubles of the West. "I do not recollect," continued Fauchet, 1795. "that he gave me at that time any details as to the manner in which this discovery would produce this last effect; but I perfectly recollect to have heard it said, by some person or other, that the insurgents would be abandoned by the greatest number of those whom they believed on their side, and that the militia would march with cheerfulness if it were proved that the English were at the bottom of these maneuvers. I think, therefore, that probably this was the manner in which he conceived the thing would be settled. At the moment of his mounting his horse, he observed to me that the men whom I might be able to employ might be debtors to English merchants; that in this case they might perhaps be exposed, on the slightest movements in this important affair, to see themselves harassed by process, and even arrested by their creditors; and he asked if the payment of the sums due to them, by virtue of the existing contracts, would not be sufficiently early to render them independent of British persecutions? This proposition to obtain intelligence, I confess, surprised me. I was astonished that the government did not procure for itself information so precious; and I made the reflections contained in my letter on this affair, because I believed that all the citizens in the United States ought to endeavor to furnish intelligence so important, without being stopped by the fear of British persecution; and because I, moreover, thought, when I committed my reflections to paper, that it was proposed to obtain the foregoing intelligence by assisting with loans those who had contracted with me. But now calling to mind all the circumstances to which the questions of Mr. Randolph direct

**CHAPTER** my attention, I have an intimate conviction that I was  
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mistaken in the propositions which I supposed to have  
1795. been made to me."

That Fauchet might have misapprehended the purport of Randolph's conversation at the interview in question is highly probable; nor ought any serious regard to be paid to the extensive superstructure of inferences which the lively fancy of the French minister had erected upon it. Yet the new version of that conversation concocted at Newport, and based upon Randolph's explanatory suggestions upon his first reading the intercepted dispatch, has all the marks of a pure romance. A civil war to be prevented by penetrating into the secrets of a presumed cabal in New York between the British minister and others, and this object to be accomplished by means of the contractors for supplying flour to the French government—very likely persons indeed to be in Hammond's confidence! And then the precautions of Randolph to secure these agents against possible arrest for supposed British debts, by urging the payment of the amounts due them on their contracts! It is difficult to suppose that a man of Randolph's sagacity made a special visit to the French minister's country house to propose any such ridiculous scheme, and not less difficult to imagine that Fauchet could so far have misunderstood a conversation, which strongly excited his attention, as to transform these nameless flour contractors into "four men" able, by their talents, influence, and energy, to save the country from a civil war, but needing a loan from the French minister to protect them from arrest by their English creditors. So little, indeed, was Randolph satisfied with a story which he himself had put into Fauchet's mouth, that, although he argued very stoutly, in his published Vindication, for

the probability and consistency of that statement, he declined to say that he himself remembered one single particular of it. According to his account, he had merely suggested to Fauchet not to let slip so good an opportunity to substantiate the complaints he had been in the habit of making of machinations carried on by Hammond in New York, designed to operate on American politics in a manner unfavorable to the French republic. CHAPTER  
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Taking into account that Randolph was excessively embarrassed in his pecuniary circumstances, and that he left office a defaulter, the conjecture does not appear improbable that, to obtain some relief for himself, he might have attempted an experiment on the political credulity of the French minister. At all events, his conduct in the matter was by no means that of a man conscious of innocence. Instead of indignation against Fauchet, his whole anger was directed against Washington; and he attempted to withdraw attention from the true issue, and to shield himself behind the popular excitement against the British, by undertaking to show, in his published Vindication, that the intercepted dispatch had been communicated to Washington as part of a scheme concocted between Hammond and the cabinet officers to insure the ratification of the treaty, to drive Randolph from office, and "to destroy the Republicans in the United States."

The ratification of the treaty by no means quieted the public excitement. The idea was started that, although the president might ratify, it still rested with the House of Representatives to refuse, if they chose, the pecuniary means to carry the treaty into effect. The elections in all the states were not yet completed, yet it was confidently alleged that a majority hostile to the treaty had been already chosen.

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But in proportion to the zeal with which the treaty had been attacked was the rally made in its favor. The 1795. Boston Chamber of Commerce, a few days before the president's decision, had passed a resolution, with only one dissenting voice, in favor of ratification. This was followed up by a memorial from the merchants and traders of Philadelphia, taking the same ground, and signed by a long list of names. Of the numerous public meetings which continued to be held in all parts of the country, many came out in support of the treaty, and of the president's constitutional power in the matter. Some of the more violent of the Boston Democrats, as a counter-demonstration, paraded the streets with an effigy of Jay, which they persisted in burning. They then attacked the house of a Federal editor, but were fired on and repulsed. Disturbances were kept up for several nights; but, by alarming all friends of order, they served to strengthen the opposite party.

The question had already been carried into the newspapers, where it was discussed with great warmth, and in several cases with great ability. Not to mention numberless inferior writers, Brockholst Livingston assailed the treaty as Decius, to whom Hamilton, ever ready and able, responded as Camillus. So much was Jefferson alarmed at the force of Hamilton's reasoning, that he Sept. 21. pressed Madison, "for God's sake," to take up his pen, there being nobody but him able to meet that Federal champion, whom he described as "really a Colossus," "a host within himself," and whose reasoning he had found by experience that "honest, sound-hearted men were unable to parry."

Notwithstanding the exclusion of American vessels from the British West Indies, and the various annoyances to which American trade was subjected, that trade was

increasing at a rapid rate. The exports had risen in five years from nineteen millions annually to forty-eight millions. A large part of this increase was in foreign merchandise, brought to the United States and again exported; but the value and amount of the domestic exports had also been greatly enhanced. Such a trade was not to be sacrificed to a war with Great Britain, except for the most urgent reasons; and, in spite of all the efforts of the opposition to arouse their passions, the great body of the merchants, and of the more judicious and reflecting portion of the people, came to the conclusion that the president had acted wisely in ratifying the treaty. Prudential considerations like these had, however, little weight with the more ignorant, thoughtless, passionate, and violent, the bitter haters of England and partisans of France; and, unfortunately, the conduct of too many of the British officials had been, and still continued to be, but little calculated to allay prevailing antipathies. Hammond, the late British minister—for he too, as well as Fauchet, had gone home—was described by Wolcott as a weak, vain, and imprudent person, very much in the company and under the control of sour and prejudiced Tories, associations into which his connections by marriage naturally led him. The British naval officers were far from using that caution and delicacy by which alone the Americans could have been reconciled, if, indeed, any thing could have reconciled them, to the impressment of British seamen from American vessels. Indeed, the opinion very generally prevailed that most of these officers were quite careless whether the men impressed were British or not. Nor were the English, any more than the French cruisers, always observant of American territorial rights. Considerable feeling had lately been excited by an attempt to seize Fauchet, the

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CHAPTER VIII. returning French minister, within the American waters, while on his passage through the Sound in an American packet; an attempt made by the boats of a British frigate, which lay off the harbor of Newport, watching the French frigate in which that minister was to embark. Stormy weather drove the packet into New London, whence Fauchet, on some hint of what was intended, proceeded to Newport by land; a lucky escape for him, as the packet was subsequently stopped and searched; in consequence of which outrage, the British frigate was ordered out of the waters of the United States. The British consul at Newport, who was believed to have been privy to the scheme, and who had written a somewhat disrespectful letter in relation to it, was also deprived of his exequatur. Co-operating with this antipathy to England was a new enthusiasm in favor of the French, roused by their recent successes resulting in the conquest and revolution of Holland, the organization of the Batavian republic as a dependent ally of France, and the withdrawal, first of Prussia and then of Spain, from the alliance against the French republic. Notwithstanding the fearful atrocities of the late reign of terror, the strong American feeling in favor of the French had undergone but little diminution; and the danger of giving offense to so powerful an ally, the shame of deserting so magnanimous a friend, were pressed with energy as strong objections to the British treaty.

While this question of foreign affairs still engrossed all thoughts, the troublesome and expensive contest with the Northwestern Indians was brought at last to a satisfactory conclusion. For the purpose of forming a treaty, near eleven hundred warriors of the Wyandots, Delawares, Shawanese, Ottawas, Chippewas, Potawatomes, Miamis, Weas, Kickapoos, Piankeshaws, Kaskaskias,

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and Eel River Indians, had met Wayne in council at Fort Greenville. The knowledge that the Western posts CHAPTER  
VIII. were about to be given up by the British, concurred, 1795. no doubt, with Wayne's victory in bringing about this peaceful disposition. By the terms of the treaty the Aug. 3 Indian boundary was to commence on the Ohio, opposite the mouth of the Kentucky River; thence to extend north a little east to Fort Recovery, on the southeasternmost head waters of the Wabash; thence eastwardly to the Muskingum, and up the Tuscarora branch of that river to the Cayuoga portage, and by the Cayuoga to Lake Erie. All east of this line, including the eastern and southern part of the State of Ohio, a tract of some twenty-five thousand square miles, was ceded to the United States. The Indians also ceded sixteen detached portions of territory in the region west of the line above described, the present or former sites of forts or trading houses, several of them still in possession of the British, but about to be surrendered under Jay's treaty. Among these cessions were the tract opposite Louisville, granted by Virginia to General George Rogers Clarke and his soldiers for their Revolutionary services in the Illinois country; the post of Vincennes and the land adjacent; the other ancient French settlements in that region; Fort Massac, on the Ohio, opposite the mouth of the Cumberland, Fort Defiance, Fort Wayne, the fort at the foot of the Maumee Rapids, Detroit, Mackinaw, and tracts at Sandusky, Chicago, and at the mouth and head of the Illinois River. Most of these tracts were two miles square, but several were of larger extent. In consideration of these cessions, the Indians received goods to the value of \$20,000 in presents, and they were promised besides an allowance annually of the value of \$9500, to be distributed among the contracting tribes in certain specified proportions.

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At the exchange of prisoners which took place on this occasion, many affecting incidents occurred. The war 1795. as against Kentucky had lasted for almost twenty years, during which period a large number of white people had been carried into captivity. Wives and husbands, parents and children, who had been separated for years, were now restored to each other. Many of the younger captives had quite forgotten their native language, and some of them absolutely refused to leave the savage connections, into whose families they had been taken by adoption.

On the Southern frontier the state of Indian relations was by no means so favorable. The greatest exertions were made by the agents of the government for the preservation of peace; but these efforts were perpetually counteracted by the reckless violence of some among the white settlers, especially in Georgia, by whom new and unprovoked bloody outrages were committed on the Indians, by which that frontier was kept in a constant state of inquietude.

Before the meeting of Congress, though the result was not known till after the session commenced, two other important treaties were concluded, besides a recognition of the former treaty with Morocco, obtained from the new sovereign. After a visit to the United States, with special reference to the Algerine negotiation, Humphreys had returned again to Lisbon, commissioned to buy a peace. From Lisbon he had proceeded to Paris, on the suggestion of Monroe, to solicit the mediation of the French republic; but he left authority with Donaldson, who had accompanied him from America as consul for Tunis and Tripoli, to close a treaty at once, should a favorable opportunity occur. Under this authority, Donaldson signed a treaty, during Humphreys's absence at

Paris, by which, in consideration of the release of the captives and of peace for the future, it was agreed to pay to the Dey of Algiers the round sum of \$763,000, 1795. besides an annual tribute in stores of the nominal value of \$24,000. But the rates at which these stores were estimated in the treaty fell so far below their real value, that this annual tribute amounted, in fact, to about \$48,000. Besides this, by the custom of Algiers, an additional biennial present was required of nine or ten thousand dollars, with \$20,000 more on the appointment of a consul. Of the temporary loan of a million of dollars, authorized for the Algerine negotiation, \$200,000 had been obtained of the Bank of New York. To borrow the remainder had not been so easy. The great extension given by the war to the carrying trade, and other speculations on foot, had raised the rate of interest. The United States Bank, already largely a creditor of the United States, was unwilling to advance any thing more in cash. It was proposed, however, to lend the remaining \$800,000 in six per cent. stock at par, held by the bank as a part of its capital. This offer was accepted, and the stock remitted to the Barings, the London agents of the American government, to be sold. But, meanwhile, the price of American stocks had begun to fall, the price of all stocks being depreciated by the large English demands for money, and the heavy premiums paid for the new loans which it became necessary to raise to carry on the war with France. The sale was delayed in hopes of a rise; but the stock continued to go still lower, and when sold a considerable loss was experienced; to which was added another loss on the remittance to Algiers, owing to the unfavorable state of the exchanges. Nor was this the end of the matter. The dey grew so impatient at not receiving his money,

CHAPTER VIII. that Barlow, who had been appointed, on Monroe's recommendation, consul at Algiers, found it necessary to  
1795. pacify him by the promise of a frigate, which involved an expense of another hundred thousand dollars, so that, in the end, the Algerine peace was pretty dearly purchased.

Nor was this the only occasion on which the disturbed state of Europe interfered with the financial operations of the United States. Thus far the installments of the foreign debt had been provided for as they fell due by new loans in Holland; but that resource was now at an end. To meet an installment of one of the old Dutch loans falling due this year, another sum of \$660,000 had been borrowed of the United States Bank, in six per cent. stock, and remitted to Amsterdam for sale. But, owing to the confusion growing out of the French invasion of Holland and the erection of the Batavian republic, it had been impossible to effect the sale, and the installment, in consequence, had failed to be paid. But as the reason was known, and the interest continued to be met, the failure had no injurious effect on the credit of the country.

These difficulties had been foreseen by Hamilton, and it had been part of his scheme for the redemption of the public debt to convert the whole of the outstanding foreign loans, upon which interest was payable abroad, into a new domestic loan, the interest payable in Philadelphia. Such a provision had been inserted into the act of the last session, providing for the redemption of the public debt, the inducement held out to the creditor being the addition of one half of one per cent. to the annual interest. Hamilton had proposed, as an additional inducement, to make the new stock irredeemable before 1818, up to which period, according to his calculation, the re-

demption of the present domestic loans would exhaust all the disposable means of the government. Such, however, had been the clamor about irredeemable debts, that this part of Hamilton's suggestion was not adopted, the new stock being made redeemable at the pleasure of the government. The inducement held out by a stock like this was not thought sufficient by the Dutch stockholders, and only a very small amount was subscribed to the new loan. The French government availed itself, however, of this opportunity to realize at once the amount due to France, that amount being subscribed to the new loan, the certificates of which were immediately disposed of in payments of purchases made or debts contracted in America, the French government, by this operation, ceasing to be any longer a creditor of the United States.

Thomas Pinckney, sent from London on a special mission to the court of Spain, settled at last the long pending Spanish questions. The Florida boundary, in accordance with the American claim, and in the terms of the treaty of 1783 with Great Britain, was to be, between the Mississippi and the Appalachicola, the thirty-first degree of north latitude, and east of the Appalachicola, a line from the junction of the Flint to the head of the St. Mary's, and thence by that river to the sea. The navigation of the Mississippi was to be free to both parties throughout its entire extent. The Americans were to enjoy a right of deposit at New Orleans for three years, at the end of which period either that privilege was to be continued, or an equivalent establishment was to be assigned them at some other convenient point on the bank of the Lower Mississippi. Neither party was to make alliances with Indian tribes living within the territories of the other, nor was either party to allow its Indians to carry hostilities into the territories of the other.

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CHAPTER VIII. Provision was also made for the speedy survey of the boundary line.

1795. The articles on the subject of commerce and navigation were principally borrowed from the French and English treaties. Those relating to neutral rights conformed to the French model, by the express exception of provisions and naval stores from the list of contraband, and by adopting the rule that free ships should make free goods. A board of commissioners was provided for, as in the English treaty, to liquidate losses on the part of the Americans, in consequence of illegal captures by Spanish cruisers, such losses to be paid by the Spanish crown.

Shortly after the resignation of Randolph, Bradford, the attorney general, had suddenly died. Thus there were two cabinet appointments to fill. The post of Attorney General, after having been refused by John Marshall and Colonel Innes, was given to Charles Lee, brother of Henry Lee, the late governor of Virginia (in which office he had been succeeded by Robert Brooke), and of Richard Bland Lee, of the federal House of Representatives, and a son-in-law of Richard Henry Lee, lately deceased. Though originally anti-Federal, that distinguished Revolutionary leader had become, before his death, a steady supporter of the administration; and the whole family, very influential in the northern counties of Virginia, had also come out as champions of the treaty, and decided Federalists. To fill up Randolph's place was still more difficult. Though Washington had abandoned the policy of a balanced cabinet, in which all parties should be represented, he still wished to find a secretary favorable, indeed, to the policy of the administration, but as little obnoxious as might be to the opposition. He offered the place first to Judge Patterson, then to the venerable Thomas Johnson of Maryland, and

then to Charles C. Pinckney, all of whom declined—John-  
son on account of his age and infirmities, and Pinckney  
for reasons connected with the state of his private affairs. 1795.

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It was then offered, on Henry Lee's suggestion, to Patrick Henry, whose original opinions on the subject of the Federal Constitution were understood to have been a good deal modified by the experience of its successful operation, and who had taken no part in the late violent opposition to the measures of the government which had emanated from Virginia. Henry declined the offer, but with expressions favorable to the government, of which he afterward became a firm supporter. Finally, the office was given to Pickering, who had discharged the duties of it during the interval. Pickering's former post as Secretary of War, after having been declined by Colonel Carrington of Virginia and Colonel Howard of Maryland, was given to James M. Henry, also of Maryland, a gentleman of patrimonial fortune, bred to the profession of medicine, yet not wholly without military experience, having served during the Revolutionary war as an aid-de-camp to La Fayette.

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A vacancy on the bench of the Supreme Court of the United States, occasioned by the resignation of Judge Blair, was presently filled by Chase of Maryland. Naturally of a very ardent and energetic temperament, of the same class of men with John Adams and M. Kean, Chase had been, like them, from the first commencement of the Revolutionary struggle, a very active political leader in his native state. He had been opposed to the Federal Constitution, among other reasons, because it did not recognize the doctrine of instructions; but, like others who had taken the same ground, he was now on the side of the administration. Few surpassed him in powers of reasoning or knowledge of the law, and of his



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energy in its administration he had lately given an instance, an account of which will serve to let us a little  
1794. into the feelings of the times. A riot had occurred at Baltimore, in which two persons had been tarred and feathered, and carted through the streets at noonday, one charged with having insulted the majesty of the people by reversing the American flag, and the other with having served on board a British privateer. The whole affair, according to the account of "a Democrat," in the Baltimore Daily Advertiser, "was conducted with great order and decency, and to the great pleasure and entertainment of all the citizens (except a few proud aristocrats), who cordially joined in approving, by huzzaing and other tokens of applause." Among the "proud aristocrats" who refused to applaud these patriotic proceedings was Chase, who held, at that time, the two offices of chief justice of the General Court and sole judge of the Criminal Court for the county and city of Baltimore. He caused two persons of respectability, who had been active in the riot, to be arrested and brought before him. The court-room was soon filled with participators in the late riot, and a mob, with a drum and colors, assembled outside. The judge required the prisoners to give security for their appearance at the next court; but, confident in the number and zeal of their supporters, they refused to do so. The sheriff being ordered to take them to jail, he pointed at the mob, and intimated the danger of a rescue. "Summon the posse comitatus," said the judge; to which the sheriff replied that no one would obey his call. "Summon me, then," answered Chase; "I will be the posse comitatus, and I will take the prisoners to jail." Seeing how matters stood, he finally gave the prisoners till next day to consider of the subject. When some one suggested that

the next day was Sunday, "No day more fit," he answered, "on which to vindicate the law!" An express being sent off to the governor and council calling for aid, the prisoners finally yielded, and gave the bail required. When the matter came before the grand jury some three or four months afterward, they refused, though the evidence was complete, to find a bill; whereupon the judge reprimanded the sheriff for returning so bad a jury. Upon this the jury took fire; and, though they had refused to indict the rioters, they brought in a presentment against the judge for abuse of power and insult to them in presuming to censure the sheriff; also for holding, as they alleged, two incompatible offices, in being at the same time judge of two courts; and they included, also, in the presentment, the governor and council, for having given him those two appointments. Chase quietly informed the jury, in reply, that they had quite overstepped their jurisdiction, which did not extend to cases of misbehavior on the part of judges or the executive. In undertaking to present the governor and council, who had done no act within their county, or in any way subject to their investigation, they had usurped a power not intrusted to them. It was the duty of the sheriff to return a panel of the best and most capable men of the county, and his failure to do so, his returning a bad jury, that is, men without sufficient knowledge or experience for the station, was subject, not to censure only, but to fine. He took no exception to their presentation of himself for holding two incompatible offices, if they really believed it to be an offense; though that presentment, it could not but be observed, seemed connected with, he would not believe that it flowed from, a supposed insult to themselves. "You will continue, gentlemen," he concluded, "to do your duty, and I shall

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CHAPTER persevere in mine, and rest assured that no mistaken  
 VIII. opinion of yours or resentment against me will prevent  
 1795. my having due respect for you—as a jury.”

From public meetings and the newspapers, the discussion of the British treaty had been transferred into the arena of the state Legislatures. It was attacked by  
 Nov. 4 Shelby, the governor of Kentucky, in his speech to the Legislature, as containing unconstitutional stipulations. The House, in their reply, seemed to agree with him, but the Senate evaded any decided committal. The House  
 Nov. 20. of Delegates of Virginia, after electing James Wood as governor, adopted, one hundred to fifty, in spite of the efforts of Marshall and Charles Lee, both of whom had seats in that body, a resolution approving the conduct of their senators in voting against the treaty. A counter-resolution, declaring their undiminished confidence in the president, was lost, fifty-nine to seventy-nine. But this implied censure was partially qualified by another vote, seventy-eight to sixty-two, disclaiming any imputation on the president's motives. Another series of resolutions was also adopted, proposing to amend the Constitution of the United States by admitting the House of Representatives to a share in the treaty-making power; by reducing the senatorial term to three years; by depriving the Senate of the power to try impeachments; and by disqualifying judges of the Supreme Court of the United States from holding any other office. Yet this same Legislature so far abandoned one of the favorite topics of denunciation as to adopt a resolution in favor of the establishment within the state of a branch of the national bank.

The Maryland Legislature, stimulated thereto in no small degree by the eloquence of William Pinkney, then just rising into notice, unanimously passed a resolution expressing their “deep concern at a series of efforts, by

indirect insinuation or open invective, to detach from the first magistrate of the Union the well-earned confidence of his fellow-citizens," and declaring "their unabated reliance on his integrity, judgment, and patriotism." A declaration very similar was made by the Senate of Pennsylvania in their answer to the governor's speech. In answer to the speech of John Taylor Gilman, governor of New Hampshire for two years past, the Legislature of that state expressed "their abhorrence of those disturbers of the peace who had endeavored to render abortive measures so well calculated to advance the happiness of the country." The North Carolina Legislature rejected by a decided majority a series of resolutions after the Virginia model, reprobating the treaty, and thanking their senators for having opposed it. Resolutions having been introduced into the South Carolina Legislature declaring the treaty "highly injurious to the general interests of the United States," the friends of the treaty, finding themselves quite in the minority, refused to vote at all, on the ground that the Legislature had no business to interfere with a matter intrusted to the president and Senate; and in consequence of this refusal, the resolutions passed by a unanimous vote. But the House did not venture to send up their resolutions to the Senate. A resolution declaring the treaty unconstitutional, very warmly urged by Charles Pinckney, was opposed and defeated principally by the efforts of John Rutledge, Jun., a son of the new chief justice.

In Delaware, the opponents of the treaty, being in the minority, resorted to the same tactics employed by its friends in Virginia. They endeavored to substitute for a declaration that "the president and Senate had merited the approbation of their fellow-citizens by a faithful discharge of their duty," a resolution that the matter

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CHAPTER VIII. did not properly fall under the cognizance of the Assembly. But this was voted down, and the resolution of 1796. approval passed. In his address to the General Court Jan. 15. of Massachusetts, Governor Adams spoke of the treaty as "pregnant with evil." He suggested a conflict of authority, as the Constitution stood, between the treaty-making power of the president and Senate and the legislative authority of the House, and he seemed to think an amendment on that point worthy of consideration. He also transmitted to the Court the resolutions lately passed in Virginia on the subject of amendments; but neither those nor his own suggestions met with any favorable response. The Massachusetts Senate, declaring their concurrence in the belief avowed by the governor that the administration of the general government was in honest hands, expressed a unanimous opinion that it would be "an interference with the power intrusted to that government for the state Legislatures to decide on the British treaty;" while the House, by a large majority, suggested "a respectful submission on the part of the people to the constituted authorities" "as the surest means of enjoying and perpetuating the invaluable blessings of our free and representative government." The Feb. General Court of Rhode Island expressed the opinion that the president and Senate, in their action on the treaty, had been solely actuated by regard to the peace and prosperity of their country; and in that state, as well as in New York and Massachusetts, the proposed Virginia amendments were rejected or laid on the table.

Before the president had succeeded in supplying the vacancies in his cabinet, and pending these demonstrations of opinion in the states, the fourth Congress had 1795. already met. Among those who had heretofore been Dec. 7. members, there appeared in the House, Ames, Goodhue,

Sedgwick, Thatcher, Dearborn, and W. Lyman, of Massachusetts; Tracy and Hillhouse, of Connecticut; Dayton, of New Jersey; Hartley, Kittera, F. A. Muhlenburg, Findley, and Gregg, of Pennsylvania; Murray and Smith, of Maryland; Madison, Giles, Nicholas, Page, and Parker, of Virginia; Macon, of North Carolina; Smith, of South Carolina, and Baldwin, of Georgia. Among the new members were Joseph B. Varnum, of Massachusetts, who had defeated Dexter after a violent and protracted struggle; Roger Griswold, of Connecticut; Edward Livingston, a younger brother of Chancellor Livingston, from the city of New York; Samuel Sitgreaves, Albert Gallatin, and John Swanwick, of Pennsylvania, the latter chosen in Philadelphia over the head of Fitzsimmons; Gabriel Duvall, of Maryland, afterward a judge of the Supreme Court of the United States; and Wade Hampton and Robert C. Harper, of South Carolina. Harper, by profession a lawyer, born in Maryland, of humble parentage, had been chosen from one of the upper districts of South Carolina as an opponent of the policy of the administration. His political zeal had, indeed, been so great, that, a year or two before, he had solicited admission into the Democratic club of Charleston. He saw reason, however, to change his opinions, and presently became a conspicuous champion of the Federal party. Dayton was chosen speaker over Muhlenburg by a vote of forty-six to thirty-one. This, however, was no test of the strength of parties. All the Federalists voted for Dayton, as the only person at all connected with their party who had the slightest chance of success; while Dayton's personal influence, his former zeal for the sequestration of British debts, and the belief that he would hardly sustain a treaty, one of the articles of which seemed leveled at his motion on that subject, secured him the votes of many

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CHAPTER VIII. opponents of the administration. The old clerk, Bexley, was re-elected by a majority as large as Dayton's, though 1795. he was opposed by the Federalists as being devoted to the opposition, and was even strongly suspected as the author of certain recent articles in the *Aurora* signed "a Calm Observer," in which Washington was charged with having drawn from the treasury money on account of his salary to which he was not entitled.

By the rules as revised and adopted, to the two standing committees on Elections and Claims, two others were added, one on Commerce and Manufactures, the other on Unfinished Business. A standing committee of Ways and Means, consisting, as in the last Congress, of one member from each state, was presently appointed, on motion of Gallatin.

Dec. 3. The president, in his opening speech, announcing the conclusion of peace with the Northwest Indians, the treaty with Algiers, and the prospect of a treaty with Spain—for the news of its actual conclusion had not yet arrived—congratulated Congress on a state of public affairs, and a prosperity of agriculture, commerce, and manufactures beyond former example. He also officially announced his ratification of the British treaty, except the West India article, and promised, as soon as the result on the part of the British government should be known, to place the whole subject before Congress. He suggested a remodeling of the military establishment; pressed anew an efficient organization of the militia; and urged, with emphasis, the adoption of measures to protect the Indians against the violence of the lawless part of the frontier inhabitants, as the only means of securing peace with the Indians, and thus preventing a constant series of retaliations shocking to humanity, and an enormous drain on the treasury of the Union. "To enforce upon

the Indians the observance of justice, it is indispensable that there shall be competent means of rendering justice to them. If these means can be devised by the wisdom of Congress—and especially if there can be added an adequate provision for supplying the necessities of the Indians on reasonable terms (a measure, the mention of which I the more readily repeat, as in all the conferences with them they urge it with solicitude)—I should not hesitate to entertain a strong hope of rendering our tranquillity permanent. I add, with pleasure, that the probability even of their civilization is not diminished by the experiments which have been thus far made under the auspices of government. The accomplishment of this work, if practicable, will reflect undecaying luster on our national ~~name~~ and administer the most grateful consolation ~~to our minds~~ can know.” The speech concluded with the following significant hint: “Temperate discussion of the important subjects which may arise in the course of the session, and mutual forbearance where there is a difference of opinion, are too obvious and necessary for the peace, happiness, and welfare of our country to need any recommendation of mine.”

The answer of the Senate spoke of the president's foreign policy as “an enlightened, firm, and persevering endeavor to preserve peace, freedom, and prosperity.” This the opposition wished to strike out, objecting to the introduction of any thing into the address tending to revive the divisions of the late extra session. But the majority would not consent, and the address was carried fourteen to eight.

In the House, Parker proposed to forego the established usage of a formal written reply to the president's speech, carried to him by the members in a body, and to substitute instead a committee, with a verbal assurance that

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**CHAPTER** the several subjects suggested should be taken into con-  
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1795. ed, and Madison, Sedgwick, and Sitgreaves, the two last decided Federalists, were appointed a committee to draft the usual reply. The draft, as reported, ascribed a full share of the "unequaled spectacle of national happiness" which the country exhibited to the benefits derived from the president's administration, resulting as well from "the undiminished confidence of his fellow-citizens as from his zealous and successful labors in their service." When this report was presented, Parker moved to strike out the word "unequaled," as well as all reference to "undiminished confidence" in the president, and to his "zealous and successful labors." This motion, which did but follow the lead of the Virginia Assembly, then in session, was sustained by the House, and the draft be-

Dec. 16. ing recommitted, was modified to read as follows: "In contemplating that spectacle of national happiness which our country exhibits, and of which you, sir, have been pleased to make an interesting summary, permit us to acknowledge and declare the very great share which your zealous and faithful services have contributed to it, and to express the affectionate attachment which we feel for your character." But, while thus chiming in with the popular feeling of esteem and attachment for the president, the substitution of this new draft for that originally reported implied, at least so the Federalists thought, a tacit censure of his recent course, amounting to an indirect vote of diminished confidence.

The address thus disposed of, the early part of the session passed off very quietly, both sides seeming to reserve themselves till the British treaty should come up. This calm, however, was somewhat disturbed by a curious question of breach of privilege, growing out of an alleged

attempt to bribe certain members of the House—one of the fruits of that spirit of land speculation which, since the adoption of the Federal Constitution and the revival of public prosperity, had been pushed to a great extent. The vast public domain, which, in consequence of the Revolution, had passed into the hands of particular states, was already mostly exhausted. Massachusetts still retained her property in the larger part of the wild lands of Maine; but even there extensive speculations had taken place, while her far more valuable tracts in Western New York, obtained by compromise with that state, had all passed into the hands of individuals. Of the seven millions of acres which New York had possessed, exclusive of the lands yielded to Massachusetts, five millions and a half had been disposed of at a single sale in 1791, for about a million of dollars. More than three and a half million acres had been purchased by a single individual, at the rate of eight cents an acre, payable in five annual installments, without interest; but this purchase, including the elevated and sterile tract of the Adirondack Mountains, between Lake Champlain and the St. Lawrence, which remains unsettled to this day, proved by no means a profitable speculation. These, with other subsequent sales, had almost exhausted the public domain of New York. Of the large tracts which the confiscation of the proprietary estates had thrown into the hands of Pennsylvania, almost the whole had been bought up by speculators. As to Virginia and North Carolina, their unlocated land warrants already issued were more than sufficient to cover the lands within their limits, together with all the ceded portions of Kentucky and the Territory south of the Ohio. In this emergency, the speculators had turned their attention to the lands claimed by Georgia west of the Chattahoochee and between that

CHAPTER river and the Mississippi. These lands, it is true, were  
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occupied at present by the Creeks, Choctaws, and Chick-

1795 asaws, numerous and powerful Indian tribes. The title of Georgia to these lands was also very questionable, especially to that part of them below the thirty-third degree of north latitude, all the lands below that parallel being claimed by the United States, as formerly a part of the British province of West Florida. But this had not prevented the formation of four companies, including some very eminent citizens in various parts of the Union, to which the Legislature of Georgia, during the preceding winter, had sold the pre-emption right to a vast portion of the tract above described. These speculators had proceeded to sell out, at a great advance, to individuals and companies in the Middle States and New England. The profits thus obtained stimulated others to like enterprises; while the influence alleged to have been exercised on the Legislature of Georgia perhaps suggested the operating upon Congress by similar means.

Two persons, Randall and Whitney, one from Maryland, the other from Vermont, in conjunction with some Indian traders and others in Detroit, where Randall had lately been, had formed a scheme for obtaining from Congress, for the sum of \$500,000, the right to purchase of the Indians some twenty millions of acres in the peninsula of Michigan, to be divided into forty shares. Inducements had been held out to certain members of Congress to give their support to this scheme by the offer of shares in the speculation, to be ultimately purchased, if they did not choose to hold them, by the company. Overtures of this sort had been made to Giles, Smith of South Carolina, Murray, and others. Giles communicated the matter to the speaker and to certain confidential friends, but said nothing publicly, hoping to

detect the culprits by their votes. Randall boasted that he had already secured thirty members, and Giles did not doubt that all, or most of them, were Federalists, whose venality would thus be detected and exposed. This scheme was defeated, however, by Murray, who made a statement on the subject to the House, being unwilling, as he said, that any of the members should be ignorantly and innocently seduced into voting for the grant on its merits. For public as well as private reasons were urged in its favor; the proposed company, through the influence of its members with the Indians, would do much, it was said, toward preserving peace on the frontier.

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Randall was ordered to be arrested, and, after an examination of Whitney, was put upon trial before the House on a charge of attempting to corrupt its members, and of having said that he had already secured thirty votes for his project. He was allowed counsel, and the privilege of examining, under oath, members and others; and the like privilege was exercised against him. The defense set up was that he had been misunderstood, and that his conduct, though foolish and imprudent, had not been corrupt. After the hearing, a resolution was adopted, declaring Randall guilty of a high contempt in attempting to influence members as to their legislative functions. There were seventeen votes against this resolution, those of Madison, Page, and Nicholas among the number, who maintained that the members had no privilege against such attempts except in their own integrity. Randall was sentenced to be reprimanded by the speaker, and to remain in custody until further order; but, a few days after the reprimand, he was dismissed on payment of fees.

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Somewhat later in the session, another question of privilege grew out of the Georgia land speculation man-

CHAPTER VIII. tioned above. There had been transmitted to Baldwin  
1796. a memorial to Congress to do nothing recognizing the  
validity of that sale until an investigation could be had.

Gunn, one of the Georgia senators, himself deeply interested in the business, claimed the right to see this memorial before its presentation, and also to be informed of the names of the signers. Baldwin having refused to allow this, Gunn, who was a person of very fiery temperament, sent him a challenge through Frelinghuysen of New Jersey, a brother senator also concerned in the Georgia purchase. As this was not a personal, but a political matter—not a question of etiquette and chivalry, so Baldwin expressed it, but one relating to his rights and duties as a representative, he laid the challenge before the House. The committee to whom the subject  
March 8. was referred reported that both Gunn and Frelinghuysen had been guilty of a breach of privilege; but, as both the senators had addressed letters of apology to the House, disclaiming any intentional disrespect, no further proceedings were deemed necessary.

While waiting for the British treaty, the House leisurely employed itself on several bills, of which a further account will be presently given. The Senate refused to confirm the nomination of Rutledge as chief justice—a refusal by no means disagreeable to the president—and, after presiding at one term of the court, he had the mortification to be obliged to retire. Cushing of Massachusetts, one of the original judges, was then nominated and approved; but, as he declined to accept the promotion, the office was ultimately given to Ellsworth of Connecticut, to whose seat in the Senate Hillhouse presently succeeded.

The treaty with Great Britain having at length returned with the suspending article appended, the presi-

dent proclaimed it as the law of the land, and, agreeably to his promise, sent a copy of it to the House. Both parties were roused by its appearance for a determined struggle. The first movement came from the opposition, in the shape of a motion by Livingston to call upon the president for his instructions to Jay, and the correspondence and other documents relating to the treaty.

When this motion came up for debate, Tracy inquired as to its object, since on that its propriety would depend. The call would be proper if an impeachment either of Jay or the president were intended, but not so if the constitutionality of the treaty was to be questioned, because that must depend on the treaty itself. Or did the House propose to inquire whether a better treaty might not have been made?

Without disavowing either of the objects above suggested, Livingston stated, as his principal reason, a firm conviction that the House was vested with a discretionary power whether or not to carry the treaty into execution. This, accordingly, became the point on which the passage of the resolution was made to turn. Gallatin took the leading part in favor of it, sustained by Madison, Baldwin, Livingston, Giles, and others. The opposite view was maintained by Smith of South Carolina, Harper, Murray, Hillhouse, and others of less note.

Those who maintained the right of the House to execute a treaty or not at its pleasure relied upon that clause of the Constitution vesting the legislative power in Congress. Treaties being the law of the land, and the legislative power being in Congress, the House, as one of the branches of Congress, must have the right of granting or refusing that consent, without which no law could be enacted. The other side relied upon the clause of the Constitution expressly vesting in the president,

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with the advice and consent of the Senate, the power to make treaties. From these extreme points, both sides advanced a little to meet each other. The House, it was admitted, had no right to interfere, except so far as a treaty might involve some one of the matters specially enumerated in the Constitution as subject to the control of Congress; while the other side conceded that if a treaty were made, ruinous and destructive in its nature, the House might rightfully defeat its operation. This right, however, stood on the same ground with the right of insurrection, being, in fact, extra-constitutional and revolutionary. In support of the right of the House, Gallatin appealed to the practice of Great Britain, alleging that Parliament claimed the right of passing upon all treaties. Giles was rather doubtful about appealing to British example for any thing; but as the House of Commons was the special representative of the British people, such an appeal might, in that view, perhaps, be tolerated. Smith and Harper denied that any example could be produced of a treaty defeated by a refusal on the part of the House of Commons to pass the laws or to make the appropriations necessary to carry it into effect; and, in the second place, they denied any analogy between the two cases. The British Parliament claimed to be omnipotent; the powers of Congress were specially limited. The British House of Commons was the sole representative of the people, whereas the president and Senate were as much the people's representatives as the members of the House, who would be guilty of arrogance and usurpation in undertaking to claim a power which the people had seen fit, through the Constitution, to intrust to other agents. Though treaties had the force of laws, they differed in one essential point from those laws, the power to make which was exclusively vested in Congress. A

law was an act of authority, to the validity of which the consent of Congress alone was sufficient, but which could have no operation exterior to the jurisdiction of Congress. 1796.

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A treaty was a compact, a bargain, by means of which, in consideration of certain rights, to have the force of law, yielded within our jurisdiction, certain advantages were obtained wholly exterior to it. If money were needed to carry out this compact, Congress must, indeed, be applied to, because no money could be drawn from the treasury except by act of Congress. But, in such a case, the only discretion possessed by Congress was as to the method of raising and paying the money. Congress had no discretion to revise the terms of the bargain, or to exercise any authority as to its fulfillment.

After some thirty speeches on either side, in a debate of three weeks, which continued to grow warmer and warmer the longer it lasted, the discussion was somewhat abruptly terminated, the resolution being carried March 24 by the decisive vote of sixty-two to thirty-seven.

Thus called upon, the president consulted his cabinet as to the right of the House to demand the papers, that right, under the circumstances of the call (the resolution not containing any hint of an impeachment), being conceived to depend on the right of the House to participate in the treaty-making power. He also requested their opinion as to the expediency of furnishing the papers, even though the belief might be entertained that the House had no right to call for them.

As to the question of right on the part of the House, the cabinet were unanimous against it. They were also unanimous on the other question. No pretense could be set up that the papers contained any thing which the government were afraid to show, for they had already been communicated to Livingston, as chairman of a com-



CHAPTER VIII. Committee on impressments, and to other members of the opposition. The call must be looked upon as a mere

1796. unfounded claim of power put forward by the House.

Due regard for the authority and rights of the presidential office seemed to require that such a pretension should be met at once by an explicit refusal. In these opinions 30. the president concurred. He stated in his message, declining to accede to the call of the House, that, having himself been a member of the Federal Convention, and knowing the principles upon which the Constitution was formed, he had never doubted that the power of making treaties was exclusively vested in the president, with the advice and consent of two thirds of the Senate. It even appeared, from the journal of the Convention, deposited with the Department of State, that a motion had been made and explicitly rejected, that no treaty should be binding which had not been ratified by law. There was every reason to believe that the state ratifying conventions had understood the Constitution as he did. On that construction he had always acted; foreign nations had negotiated in that expectation; and, hitherto, the House of Representatives had not only acquiesced, but had never questioned it. "As, therefore, it is perfectly clear, to my understanding," so the message concluded, "that the assent of the House of Representatives is not necessary to the validity of a treaty, as the treaty with Great Britain exhibits in itself all the objects requiring legislative provision, and on these the papers called for can throw no light; and as it is essential to the due administration of the government that the boundaries fixed by the Constitution between the different departments should be preserved—a just regard to the Constitution and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request."

This message, after a week's delay, was taken up in CHAPTER  
Committee of the Whole along with two resolutions of- <sup>VIII.</sup>  
fered by Blount of North Carolina, no doubt carefully 1796.  
prepared in conclave, and setting forth the counter-doc- April 6  
trine of the majesty of the House. The first and most  
important of the resolutions, after disclaiming any pre-  
tensions on the part of the House to "any agency in  
making treaties," yet undertook to assert "that, when a  
treaty stipulated regulations on any of the subjects sub-  
mitted by the Constitution to the power of Congress, it  
must depend for its execution, as to such stipulations,  
on a law to be passed by Congress," as to the expediency  
or inexpediency of which law the House had a right to  
deliberate, and to pass it or not, as they might see fit.  
The second resolution asserted that, in applications to  
the executive for information, if within the range of its  
powers, the House was not bound to state for what pur-  
pose the information was wanted—a rather uncandid and  
somewhat pitiful attempt to raise a new issue, consid-  
ering that Gallatin, the leader of the opposition, had ex-  
pressly admitted, early in the former debate, that, had  
the information been wanted as ground for an impeach-  
ment, it would and should have been so stated in the  
call.

The task of supporting these resolutions had been as-  
signed to Madison, who protested against any appeal, on  
questions of interpretation, to the proceedings of the  
Federal Convention. "The sense of that body could  
never be regarded as the oracular guide in expounding  
the Constitution. As the instrument came from the  
Convention, it was nothing more than the draft of a  
plan; nothing but a dead letter, until life and validity  
were breathed into it by the voice of the people speak-  
ing through the several state Conventions which accept-

CHAPTER ed and ratified it. Were we to look for the meaning  
VIII. of the instrument beyond its face, we must look, not  
1796. to the General Convention which proposed it, but to the  
state Conventions which accepted it;" and he attempted,  
but without much success, to gather something from the  
published debates of the Pennsylvania, Virginia, and  
North Carolina Conventions in support of his side of the  
question. As this whole subject had been already ex-  
hausted, no reply was made to Madison's speech, and  
the resolutions were adopted fifty seven to thirty-five.

Meanwhile, the treaties with the Northwestern In-  
dians, with Algiers, and with Spain, having been unani-  
mously ratified by the Senate, had been communicated  
to the House, and referred to a Committee of the Whole  
on the State of the Union. For several days all attempts  
to go into such a committee were obstinately voted down.

April 13 A committee having at length been obtained, Sedgwick  
got the floor, and, before any of the documents referred  
to the committee had been read, introduced a resolution  
(much to the discomfiture and surprise of the opposition,  
who endeavored to get rid of it on points of order), that  
provision ought to be made by law for carrying into ef-  
fect, with good faith, the treaties lately concluded with  
Algiers, Great Britain, Spain, and the Indians. It was  
urged in favor of taking up all the treaties together that,  
as they formed part of one system, if one were rejected,  
it might be expedient to reject the others also. After  
a violent and excited debate, in which much ill feeling  
was displayed on both sides, first, as to considering the  
treaties together, and then as to which should have the  
precedence, it was finally agreed to dispose of the other  
treaties before taking up that with Great Britain.  
While yielding this point, the Federalists consoled them-  
selves with the idea that, if the appropriations for the

British treaty should be voted down in the House, the maneuver of putting the appropriations for all the treaties into one bill might still be revived in the Senate, so that all might stand or fall together. It was suggested, indeed, that, in the last resort, the Senate might arrest the Federal City Loan Bill, then pending, a favorite measure with the South, and the Land-office Bill, a favorite of the West, might refuse to rise, might even refuse all appropriations, and in thus arresting the whole operations of government, might refer the question to the people to decide.

The resolutions as to the other treaties, after having been so modified as not to contradict the new claim of power set up by the House, passed without objection. On the resolution as to the British treaty, a two weeks' debate ensued.

Madison opened against the treaty in an elaborate speech, arranging his objections under three heads. So far as related to the settlement of the disputes growing out of the treaty of peace, there was, he maintained, the grossest want of reciprocity. The British got all they claimed, namely, the debts due their merchants, with damages in the shape of interest. For the negroes carried off we got nothing; we obtained, indeed, the Western posts, but it was without damages for detention, and shackled with conditions respecting the Indian trade which made their possession quite nugatory as to influence over the Indians, in which alone their value consisted. The agreement to pay our claims for spoliations was no offset to the negro claim, because both were just, and both ought to be paid. The same want of reciprocity prevailed in that part of the treaty relating to neutral rights and the law of nations. We had yielded up the favorite principle that free ships make free

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CHAPTER goods; we had added naval stores, and even provisions,  
VILL to the list of contraband. The concession to certain

1796. British subjects of the right to hold lands, the stipulation concerning the navigation of the Mississippi, and the inequality of opening all American ports to the British, while we were excluded from their colonial harbors, were all grounds of objection. This allowing Britain to retain her colonial monopoly was, indeed, "a phenomenon which had filled him with more surprise than he knew how to express." We had tied up our hands, too, from retaliating by giving up the right of further discrimination. This, indeed, was touching Madison in a sore spot, setting aside, as it did so long as the treaty remained in force, his favorite scheme of commercial coercion. Nor was there any reciprocity in yielding up the right of sequestration, since there were no debts in England due to Americans to be sequestered. As to our trade to Great Britain and the East Indies, we had previously enjoyed every thing stipulated by the treaty, and we should continue to enjoy it without any treaty, since it was only allowed because the interest of Great Britain required it.

The idea of war as a consequence of rejecting the treaty he thought visionary and absurd. We should not be obliged to make war on Great Britain; and for her to make war upon us, pressed as she was by France, would argue a degree of madness greater than could well be imagined.

Swanwick, the new opposition member from Philadelphia, a self-conceited fop, puffed up with sudden wealth, which the vast profits of commerce at that period had thrown into his hands, scouted all the commercial provisions of the treaty, especially those relating to the East Indies. Somewhat to the surprise of the Federalists, he was followed much in the same strain by Smith of

Baltimore, who ended, however, with expressing an intention to vote for the treaty, because the majority of his constituents seemed to be in favor of it. Nicholas dwelt on the subject of British debts, which he swelled to the enormous amount of perhaps fifteen millions of dollars, though Jefferson, in his correspondence with the British minister (the object then being to prove that the English had suffered little or nothing), had reduced them to a mere trifle. Giles thought the provision for paying those debts would lead to fraudulent collusions between the creditors and their debtors, and would saddle a terrible burden on the treasury. The compensation to the merchants he thought quite illusory, as every thing would depend on the chance of a favorable fifth commissioner. The sequestration article he represented as an attack upon the House of Representatives, which, just before the negotiation of the treaty, had voted to adopt a measure of that sort. He also took great offense at one of Lord Grenville's official letters to Pinckney, written before Jay's arrival, in which he had ascribed the repeal of the first provision order, in part at least, to a desire to take away all pretext from evil-disposed persons in America who seemed desirous to produce an irritation against Great Britain, and to bring the United States into the same political condition with France—a misfortune which Grenville deprecated, as well for the sake of the American people as for the common welfare and tranquillity of mankind. Taking into view the subsequent negotiation and treaty, this declaration seemed to Giles positive proof of a dangerous British influence, of which, indeed, the treaty itself afforded to his mind ample evidence. He agreed with Nicholas that the article respecting provisions was a covert attack upon France, such as would justly give her offense, amounting in sub-

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CHAPTER VIII. stance to a transfer of our alliance from France to England—a proceeding to which the people of the United States would not submit. Indeed, he considered all the articles relating to privateers and ships of war, as “constructive of the treaty with France,” to her disadvantage, an unnecessary interference in the pending European struggle, and a dishonorable departure from an impartial neutrality. The alleged danger of war with Great Britain, if the treaty were rejected, he thought, might be laid quite out of the case. Britain would at any time make war upon us whenever it was her interest to do so. The proclamation of neutrality had not, in his opinion, done any thing toward preserving peace, nor would the present treaty. Nothing had kept Britain from making war upon us but the success of the French arms, and that success, greater now than ever, would still restrain her. France had given us our independence, and would maintain it for us. Upon the argument in relation to France, Preston, another Virginia member, dwelt with still greater emphasis. He esteemed the treaty a shameful dereliction of our friends, and in direct conflict with all sense of obligation, gratitude, and friendship. Page denounced the treaty as unconstitutional. It invaded the powers of Congress to regulate commerce, and on the subject of British debts it usurped the powers of the judiciary. Findley argued that, as long as the British held Canada, the possession of the Western posts would contribute but little toward peace with the Indians, in which their principal value was supposed to consist.

It was urged, by way of reply to these multifarious objections, that we had, in fact, no claim for the negroes carried away, and that, such being the case, we had committed the first violation of the treaty by obstructing the collection of British debts, an act which justified the

retention of the posts, and so left us no claim for damages on that account. As to the British debts, the larger their amount, the more imperiously did honor and justice require their payment. The renunciation of the power of sequestrating debts was vindicated not only on the ground of justice, but as essential, since the late vote of the House of Representatives, to the maintenance of American credit. Williams and Cooper, of New York, declared their personal knowledge as to the value of the Indian trade, and the certainty that the greater part of it would fall into American hands. Goodhue replied to the criticisms on the commercial clauses of the treaty. He knew the value of the East India trade, which Swanswick and Smith had attempted to depreciate. There were thirty vessels from Salem, in his district, engaged in that traffic, and their participation in it was an object of envy to the merchants of Great Britain and Ireland, excluded by the monopoly of the British East India Company from any share in a lucrative commerce thus conceded to us—a feeling strongly evinced in a recent debate in the Irish House of Commons. As to the West India trade, why expect Great Britain to abandon her favorite Navigation Act in our special favor? Why not urge the same complaints against Spain, Portugal, Holland, France herself, for they all, except when under the pressure of war, pursued precisely the same policy? As to the compensation for spoliations, the parties most interested, so far from regarding it as futile, were perfectly satisfied, and looked anxiously for the ratification of the treaty. It was to be expected that the commissioners on that subject, and those also on the subject of British debts, would act like honest men, and decide, not from considerations of country, but of justice and evidence. Some gentlemen of the opposition, not content



**CHAPTER** with criticising the particular provisions on the subject  
**VIII.** of commerce, had substantially taken the ground that no  
1796. commercial treaty with Britain was needed. Strange doctrine in the mouths of men ready, at the very previous session of Congress, to force her into a commercial treaty by special restrictions on her commerce!

As to contraband and neutral rights, the law of nations had been the rule and limitation of our concessions. That neutral bottoms should make free goods was a novel doctrine to which Great Britain had never assented, and to which even France, in spite of her express treaty agreement with us, did not conform. Could we, without a single ship of war afloat, undertake to dictate the law of nations to Great Britain? And was it not wise, since, in certain cases, she would seize our provisions when bound to the ports of her enemies, at least to provide that cargoes so seized should be paid for? As to the alleged inconsistency of some of the articles with the rights of France under her treaty with us, there was in one of the articles an express saving of all those rights.

"Are we reduced to that low situation," asked Hillhouse, "that we may not grant indulgences to a foreign nation for the sake of obtaining advantages to ourselves when such nation happens to be at war with France? That would be making us a colony in good earnest. The independence and freedom of America depended, he believed, not upon the good or the ill will of any nation upon earth, but solely on the will of the people of the United States."

The prospect of obtaining another and a better treaty by further negotiation had been held out by Madison and others. This point was well handled by Coit of Connecticut. He would "like to see the gentleman

from Virginia, wrapped up in his mantle of doubts and problems, going on a mission to the court of London to clear up this business. High as his respect was for that gentleman's abilities, he yet feared they would prove incompetent to the task, even if aided by the collection said to be making of the speeches in the House of Representatives on the treaty-making power. However gentlemen might declare that the construction of our Constitution must lie with ourselves, unless, by a construction consistent with reason and the common sense of mankind, we could satisfy the world that we were not bound by the treaty, we should be pronounced a faithless nation; nor could a vote of the House of Representatives, against the sense of the president and Senate, and a great proportion of the American people, be expected to remove the imputation. What hope, under such circumstances, that Great Britain would consent to renew the negotiation?"

While these debates were going on in the House, the people out of doors, especially those of the commercial cities, grew more and more agitated. The danger, should the treaty be rejected, that a war with Great Britain would follow, began to inspire serious alarm. Insurance against capture could no longer be obtained, and commerce received a sudden check. Petitions began to pour in from all sides—from New York, Philadelphia, Baltimore, Boston, and from numerous other places, in favor of ratification. Much to the chagrin of Findley and Gallatin; such a petition came even from the trans-Allegany region which they represented. Nor were the opponents of the treaty idle. They held counter-meetings and got up counter-petitions. The Boston Democrats, encouraged by the recent re-election of Samuel Adams as governor, and by their success in choosing to the state Sen-

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ate Austin and Eustis, two of their leaders, ventured to  
call a town meeting, in hopes to counterbalance the pe-  
1796. tition in favor of ratification got up by the merchants.

In this, however, they were sadly disappointed, the town meeting having voted decidedly in favor of ratifying. The number of petitioners was about equal on either side, but the decided weight of wealth and intelligence was with the friends of the treaty. The opposers, indeed, in the commercial cities consisted, for the most part, of men who, in spite of their clamor about spoliations, had little or nothing to lose, headed by a few persons of wealth and intelligence, some impelled by the spirit of faction, and others by that deep antipathy to Great Britain, the residuum of the Revolutionary struggle, which formed the ruling motive of the mass of their party. The agitation throughout the country became, indeed, so great as to impress the warnings repeatedly given that the rejection of the treaty might not only occasion a British and an Indian war, but might endanger even the Union itself.

Bond, the British chargé des affaires, had already intimated that, if the House refused the appropriations for carrying the treaty into effect, the Western posts would not be given up. He insisted, also, on an explanatory article in relation to a clause in Wayne's treaty with the Indians, by which they had stipulated to allow no trader to reside among them unless licensed by the authorities of the United States, and which seemed to be in conflict with the provision of Jay's treaty for a mutual free trade with the Indians. This demand was reasonable enough, and the manner of it was unexceptionable. Yet it was felt as an unwise pressure at a moment when the treaty was hanging balanced in the House, especially as the prior stipulation in Jay's treaty

would seem to over-ride the article complained of, that having been made in ignorance of Jay's provision.

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As the tide of public sentiment was evidently setting in favor of the treaty, the debate was protracted by those in favor of it for the very purpose of giving that sentiment further time to operate. So stood the case when it devolved on Gallatin to attempt to recover for his party the ground fast slipping from beneath their feet; or, if that could not be, to take up some new position more defensible than that of a peremptory rejection. Joining to the impetuous audacity and violent spirit of Giles and Nicholas all the calm self-possession, the apparent moderation, the ingenious argument of Madison, by his effort on this occasion, whatever might be thought of his candor and fairness, Gallatin established, beyond all dispute, his reputation as a dexterous and unflinching politician, and his sole title to that leadership of the opposition in the House hitherto shared by Madison and Giles.

On the subject of the negroes, he took a new position, quoting Vattel, to show that slaves, being real estate, were not a subject of booty, but, on the restoration of peace, fell back to their former owners, like the soil to which they were attached. He objected with great emphasis to the articles respecting the Indian trade and the British navigation of the Mississippi. The article respecting spoliations he admitted to be good. However the rights of the South and West had been sacrificed, means had been found to protect the commercial interests of the North. Yet he scouted the commercial articles of the treaty as totally worthless, and insinuated that, if the Senate had known as much about the East India as about the West India trade, the articles on both subjects would have been rejected. Gallatin, like the

CHAPTER rest of the opposition, persisted in assuming, notwith-  
VIII standing repeated explanations, that the East India  
1796. coasting trade, and the direct voyage from India to Eu-  
rope, not being expressly secured by the treaty, had, in  
fact, been relinquished by it.

If England would not concede the point that neutral bottoms made free goods, we, at least, ought not, by an act of treachery to the other nations of Europe, expressly to admit the opposite doctrine. It was not merely to secure a lucrative commerce that the right of neutrals in this respect was to be maintained, but chiefly to avoid the infinite vexations growing out of the detention of neutral vessels on the pretense that they had enemy's goods on board—a pretense on which greedy privateers and unscrupulous admiralty courts would be always ready to seize. Taken in connection with our other treaties, which excluded naval stores and provisions from the list of contraband, the admitting them as such in the British treaty amounted, in his view, to a positive contract to secure to Great Britain an exclusive supply of those articles during the war. He contended with zeal for the justice and policy of the sequestration of private debts as a measure of coercion, and summed up this view of the case by maintaining that, while we had promised full indemnity to England for every possible claim against us, we had abandoned every claim of a doubtful nature, had consented to receive the Western posts under great restrictions as to our exclusive control over the Indian trade, and had made arrangements respecting trade and navigation by which we gained nothing, while we had parted with every pledge in our hands, every power of restriction, every weapon of self-defense.

Should the treaty be set aside, there would, he admitted, be little prospect of obtaining another. In that case

we should lose the indemnity for spoliations; but, looking at the matter in a pecuniary light only, we should probably be gainers by escaping the payment of the British debts. The only other loss would be the Western posts; but the provisions of the treaty rendered those posts quite valueless, either as supports to trade or as security to the frontiers. Yet the obtaining the posts, valueless as they were, the saving the national honor by some appearance of indemnity for spoliations, and, considering the present state of the country, the putting a stop to agitations by settling our disputes with Great Britain, would reconcile him to the treaty, injurious and unequal as he conceived it to be, and repugnant as it was to his feelings, but for the conduct of Great Britain, since it was signed, in pressing our seamen and stopping our provision-ships. Looking at the general conduct of Great Britain toward us, and the means by which she had procured the treaty, a final compliance on our part, while she persisted in that same course of conduct, and still held over us the chastising rod, would be, in his opinion, a dereliction of national interest, of honor, and of independence. He therefore preferred, even at the risk of the loss of the reparations offered, not a rejection of the treaty altogether, which nobody on his side, so he boldly asserted, had ever thought of, but a suspension, a postponement of it, while the present encroachments continued, in hopes to obtain reparation for them also, and assurances that they would cease. It would, indeed, be madness to plunge the United States into war, but he regarded that as a chimerical danger. On our side, war could only be declared by act of Congress; and, granting that a majority of the House wished it, which he totally denied, the declaration would surely be arrested by the president and Senate. As for England, engaged as

CHAPTER VIII she was in military operations in the West Indies, all the supplies for which were derived from us, it was not 1796. her interest to commence hostilities; and if peace took place in Europe, of which there seemed some prospect, happy to escape from one of the most bloody, expensive, and dangerous wars in which she had ever been engaged, she would hardly desire to plunge afresh into a similar calamity.

But to the cry of war the alarmists had added that of confusion. It had been urged even on this floor that, if the treaty failed, the government would be dissolved. Who would dissolve it? The triumphant majority would have no motive to do so; and surely the self-styled friends of order would not, at the first failure of their power, revenge themselves by overthrowing the government. Whatever might be the wishes or intentions of members of this House, the dissolution of the Union was a matter to be decided, not by them, but by the people. The people of the United States, from one end of the Union to the other, were strongly attached to the Constitution, and they would restrain and punish the excesses of any party and of any set of men guilty of any attempt against it. He rested in full security on the people against any endeavor to destroy our Union or our government.

He had no fears of a dissolution of the Union, yet the desire to promote a greater harmony of sentiment had been with him one of the most urgent motives in favor of suspending the treaty, instead of rejecting it. It was, indeed, difficult to say which mode of proceeding would best accord with public opinion. Taking as a guide the petitions presented to the House, the number of signatures against the treaty somewhat exceeded, at the moment he was speaking, the number in its favor. A combination to produce alarm had, indeed, been lately got up

among the merchants of Philadelphia and other sea-ports. CHAPTER  
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'To induce the people to join in the attempt to force the  
House to pass laws for carrying the treaty into execu- 1796  
tion, they had combined together to cease insuring ves-  
sels, purchasing produce, or transacting any business.  
He considered the cry of war, the threats of a dissolu-  
tion of the government, and the present alarm, as all de-  
signed for the same purpose, that of making an impres-  
sion on the fears of the House. "It was in the fear of  
being involved in a war that the negotiation with Great  
Britain had originated; under the impression of fear the  
treaty had been negotiated and signed; fear had pro-  
moted its ratification; and now, every imaginary mis-  
chief was conjured up to frighten the House, to deprive  
it of that discretion which it had a right to exercise, to  
force it to carry this treaty into effect!"

To listen calmly to this denunciation of Washington and Jay, as having pusillanimously surrendered the honor of their country—Washington in setting on foot and in ratifying, and Jay in having negotiated the treaty—coming, as it did, from the mouth of one whose evident youth and foreign accent might alone serve to betray him as an adventurer, whose arrival in the country could hardly have been long anterior to the termination of the Revolutionary struggle—was somewhat too much for human patience to bear. There was also something a little provoking in the denunciation of the merchants, as having conspired to terrify the House, coming from a man who had first obtained general notoriety, it was now hardly four years since, by the publication of his name at the bottom of a series of resolutions, of which the avowed object was to frighten public officers from the discharge of their duty by threats of a social interdict and non-intercourse—a method of proceeding which had ended



CHAPTER VIII. in violent resistance to the laws and armed insurrection. Nor is it very surprising, all things considered, that 1796. many of the Federalists were inclined to look on Gallatin as a foreign emissary, a tool of France, employed and paid to make mischief.

Several of the chief points of Gallatin's speech were answered by Tracy. As to the discovery out of Vattel that slaves could not be carried off as booty, in the first place, Vattel said no such thing; and, in the second place, the British did not refuse to restore them as booty but as men; men made free as a reward for having joined the British standard, and whom no law, human or divine, could or ought to compel to return to their former slavery. Nor was the so much condemned doctrine of the seizure of enemy's goods in neutral bottoms liable, in his opinion, to all the objections urged against it. It was the right of all nations to carry their own property to such places as they pleased, not thereby infringing the rights of others. But when two nations are at war, what right had a third nation to assist either by transporting its goods across the ocean free from the danger of being captured?

If the appropriation to carry the treaty into effect was refused, he considered the peace of the country in imminent danger. "We are not disposed to go to war with Great Britain, say gentlemen. She will have no reason to go to war with us; and they ask, with an air of triumphant complacency, how, then, is there to be a war? But look at the probable state of things. Great Britain is to retain the Western posts, and with them the confidence of the Indians. She makes no compensation for the millions spoliated from our commerce, but adds new millions to our already heavy losses. Would Americans quietly see their government strut, look big, call hard

names, repudiate treaties, and then tamely put up with <sup>CHAPTER</sup> new and aggravated injuries? Whatever might be the <sup>VIII</sup> case in other parts of the Union, his constituents were 1796 not of a temper to dance round a whisky pole one day cursing the government, and to sneak the next day into a swamp on hearing that a military force was marching against them. They knew their rights, and, if the government were unable or unwilling to give them protection, would find other means to secure it. He could not feel thankful to any gentleman for coming all the way from Geneva to accuse Americans of pusillanimity." Half a dozen of the opposition, greatly excited, called Tracy to order, and some confusion ensued. But Muhlenburg, who was in the chair, pronounced him in order, and directed him to go on. He took occasion, however, to disclaim any intention to be personal, and to beg pardon for any impropriety into which the heat of debate might have carried him, excusing himself on the ground of the feeling naturally excited by such charges coming from such a source against the American government and people.

But the great speech in favor of the treaty was made April 28. by Ames, whom a large audience had collected to hear. He had been detained from the House during the early part of the session by an access of that disorder which made all the latter part of his life one long disease. Rising from his seat, pale, feeble, hardly able to stand or to speak, but warming with the subject, he delivered a speech which, for comprehensive knowledge of human nature and of the springs of political action, for caustic ridicule, keen argument, and pathetic eloquence, even in the imperfect shape in which we possess it, has very seldom been equaled on that or any other floor. The extracts which follow possess a high historical value from

CHAPTER the light which they throw on the state of parties, and  
VIII the lively picture which they give of the excited political

1796. feelings of those times. "I shall be asked," said Ames, "why a treaty so good in some articles and so harmless in others has met with such unrelenting opposition? The apprehensions so extensively diffused on its first publication will be vouched as proof that the treaty is bad, and that the people hold it in abhorrence.

"I am not embarrassed to find the answer to this insinuation. Certainly, a foresight of its pernicious operation could not have created all the fears that were felt or affected. The alarm spread faster than the publication of the treaty. There were more critics than readers. Besides, as the subject was examined, those fears have subsided. The movements of passion are quicker than those of the understanding. We are to search for the causes of first impressions, not in the treaty itself, but in the state of public feeling.

"The fervor of the war of the Revolution had not entirely cooled, nor its controversies ceased, before the sensibility of our citizens was quickened into a tenfold vivacity by a new and extraordinary subject of irritation. One of the two great nations of Europe underwent a change which has attracted all our wonder and interested all our sympathy. Whatever that nation did, the zeal of many went with it, and often to excess. These impressions met with much to inflame, and nothing to restrain them. In our newspapers, in our feasts, and in some of our elections, enthusiasm was admitted a merit, a test of patriotism, and that made it contagious. In the opinion of party, we could not love nor hate enough. In spite of all the obloquy it may provoke, I dare to say it, we were extravagant in both. It is my right to avow that passions so impetuous, enthusiasm so wild, could

not subsist without disturbing the sober exercise of reason, without putting at risk the peace and precious interests of our country. They were hazarded : I will not exhaust the little breath I have left to say how much or by whom, or how they were rescued from the sacrifice. No one has forgotten the proceedings of 1794 ; no one has forgotten the capture of our vessels, and the imminent danger of war. The nation thirsted not merely for reparation, but for vengeance. Suffering such wrongs, and agitated by such resentments, was it in the power of any words of compact, or could any parchment with its seals prevail, at once to tranquilize the people ? Even the best treaty, though nothing be refused, will choke resentment, but not satisfy it. Every treaty is as sure to disappoint extravagant expectations as to disarm extravagant passions. Hatred is a passion that takes no bribes ; they who are animated by the spirit of revenge will not be quieted by the possibility of profit.

“ Why complain that the West Indies are not laid open ? Why lament at restrictions on the commerce of the East Indies ? Why pretend that, if this be rejected and more be insisted on, more would be obtained ? Let us be explicit. More would not satisfy. Let all be granted, and a treaty of amity with Great Britain would still be obnoxious. Have we not heard it urged against our envoy that he was not ardent enough in his hatred of Great Britain ? A treaty of amity is condemned because it was not made by a foe, and in the spirit of one ! The same gentleman repeated a very prevalent objection, that no treaty should be made with the enemy of France. No treaty, exclaim others, with a monarch or a despot ; there will be no naval security while those sea-robbers domineer on the ocean ; their den must be destroyed ; the nation must be extirpated !

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“Sir, I like this, because it is sincerity. With feelings such as these, we do not pant for treaties. Such passions seek nothing, and will be content with nothing but the destruction of their object. If a treaty left King George his island, it would not answer, not if he stipulated to pay rent for it. It has been said the world ought to rejoice if Britain were sunk in the sea; if, where there are now men and wealth, and laws and liberty, there were no more than a sand-bank for sea-monsters to fatten on, a space for the storms of the ocean to mingle in conflict. I object nothing to the good sense and humanity of all this; I yield the point that this is a proof that the age of reason is in progress. Let it be philanthropy, let it be patriotism if you will; but it is no indication that any treaty would be approved. The difficulty is, not to overcome the objections to the terms, but to restrain the repugnance to any stipulations of amity with the party.

“Having alluded to the rival of Great Britain, I am not unwilling to explain myself. I affect no concealment, and I have practiced none. While those two great nations agitate all Europe with their quarrels, they will both equally endeavor to create an influence in America. Each will exert all its arts to range our strength on its own side. But how is this to be effected? As our government is a democratical republic, it will not be disposed to pursue a system of politics in subservience either to England or France in opposition to the general wishes of the citizens. Even should Congress adopt such measures, they would not be pursued long, nor with much success. From the nature of our government, popularity is the instrument of foreign influence. Without it, all is labor and disappointment; with that mighty auxiliary, foreign intrigue finds agents, not only volunteers,

but competitors for employment, and any thing like reluctance is understood to be a crime. Has Britain this means of influence? Certainly not. If her gold could buy adherents, their becoming such would deprive them of all political power and importance. They would not wield popularity as a weapon, but would fall under it. Britain has no influence, and, for the reasons just given, can have none. She has enough—God forbid she should ever have more. France, possessed of popular enthusiasm, of party attachments, has had, and still has, too much influence on our politics. Any foreign influence is too much, and ought to be destroyed. I detest the man and disdain the spirit that can bend to a mean subserviency to the view of any nation. It is enough to be Americans; that character comprehends our duties, and ought to engross our attachments. But I would not be misunderstood; I would not break the alliance with France; I would not have the connection between the two countries even a cold one; it should be cordial and sincere. But I would banish that influence which, by acting on the passions of the citizens, may acquire a power over the government.”

Among the numerous evils, all of which could not be foreseen, sure to result from the refusal to make provision for giving effect to the treaty, Ames placed, first and foremost, the disgrace in the eyes of the world and of ourselves of a breach of national faith. This topic was treated with an admirable mixture of declamation and argument. Appealing to the hearts as well as the understandings of the members on the inestimable importance of fidelity to public engagements, he added a keen and convincing exposure of the untenable and Jesuitical position assumed by the House in disclaiming any participation in the treaty-making power, and yet claim-

CHAPTER VIII ing the right to decide upon the merits of a treaty, and to defeat its execution. Among the minor evils to re-

1796. sult from the rejection, he urged the loss of five millions of dollars to the merchants who had suffered by British spoliations, and who were anxiously looking to the treaty for indemnity; also, the renewal of the Indian war on the frontier, likely to result from the retention of the posts by the British. "On this theme," he exclaimed, "my emotions are unutterable! If I could find words for them—if my powers bore any proportion to my zeal, I would swell my voice to such a note of remonstrance, it should reach every log-house beyond the mountains. I would say to the inhabitants, 'Wake from your false security! Your cruel dangers, your more cruel apprehensions, are soon to be renewed. The wounds yet unhealed are to be torn open again. In the day-time your path through the woods will be ambushed; the darkness of midnight will glitter with the blaze of your dwellings. You are a father—the blood of your sons shall fatten your corn-field; you are a mother—the war-whoop shall wake the sleep of the cradle!' On this subject you need not suspect any deception on your feelings; it is a spectacle of horror which can not be overdrawn. If you have nature in your hearts, they will speak a language compared with which all I have said or can say will be poor and frigid.

"It is vain to offer as an excuse that public men are not to be reproached for the evils that may happen to ensue from their measures. This is very true when those evils are unforeseen or inevitable. But those I have depicted are not unforeseen; they are so far from inevitable that we are going to bring them into being by our vote. By rejecting the posts, we light the savage fires, we bind the victims. This day we undertake to render an account

to the widows and orphans whom our decision will make !”

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Finally, he passed to the still more serious evil, the danger of a war with Great Britain, should the treaty be rejected ; and, in case of such a war, the additional danger even of civil commotions.

“ The idea of war has been treated as a bugbear. This levity is at least unseasonable, and, most of all, unbecoming some who resort to it. Who has forgotten the philippics of 1794 ? The cry then was reparation, no envoy, no treaty, no tedious delays. Now, it seems, the passion subsides, or, at least, the hurry to satisfy it. Now they give us excellent comfort, truly. Great Britain has seized our vessels and cargoes to the amount of millions ; she holds the posts ; she interrupts our trade as a neutral nation ; and these gentlemen, late so fierce for redress, now tell us, ‘ Great Britain will bear all this patiently.’ But will our own nation bear it ? Will it add to the quiet of our citizens to see their rights abandoned ? Will not the disappointment now, in the very crisis of their being realized, of their hopes, so long patronized by the government, convert all their passions into fury and despair ?

“ Wars in all countries, and most of all in such as are free, arise from the impetuosity of public feeling. The despotism of Turkey is often obliged by clamor to unsheath the sword. War might perhaps be delayed, but could not be prevented ; the causes of it would remain, would be aggravated, would be multiplied, and would soon become intolerable. More captures, more impressments would swell the list of our wrongs and the current of our rage. I make no calculation of the arts of those whose employment it has been on former occasions to fan the fire ; I say nothing of the foreign money



**CHAPTER** and emissaries that might foment the spirit of hostility.  
**VIII.** because the state of things will naturally run to violence

1796. "And is there any thing in the interior state of the country to encourage us to aggravate the dangers of a war? Would not the shock of that evil produce another, and shake down the feeble and then unbraced structure of our government? The rejection of the appropriation proceeds upon the doctrine of a civil war of the departments. Two branches of the government have ratified a treaty, and we are going to set it aside. How is this disorder in the machine to be rectified? When we talk of a remedy, is it any other than the formidable one of a revolutionary interposition of the people? And is this, in the judgment even of my opposers, to preserve the Constitution and the public order? Is this the state of hazard, if not of convulsion, which they can have the courage to contemplate and to brave, or beyond which their penetration can reach and see the issue? They seem to believe, and they act as if they believed, that our union, our peace, our liberty, are invulnerable and immortal; as if our happy state was not to be disturbed by our dissensions, and that we are not capable of falling from it by our unworthiness. Some of them have, no doubt, better nerves and better discernment than mine. They can see the bright aspects and happy consequences of all this array of horrors. But, whatever they may anticipate as the next measure of prudence and safety, they have explained nothing to the House. After rejecting the treaty, what is to be the next step? They must have foreseen what ought to be done. They have doubtless resolved what to propose. Why, then, are they silent? Dare they not avow their plan of conduct, or do they wait until our progress toward confusion shall guide them in forming it?

“Is it possible for a real American to look at the prosperity of this country without some desire for its continuance, without some respect for the measures which many will say produced, and all will confess have preserved it? Will he not feel some dread that a change of system will reverse the scene? The well-grounded fears of our citizens in 1794 are not forgotten. Then they deemed war nearly inevitable; and would not this adjustment have been considered at that day as a happy escape from the calamity? The great interest and the general desire of our people was to enjoy the advantages of neutrality. This instrument, however misrepresented, affords America that inestimable security. The causes of our disputes are either cut up by the roots, or referred to a new negotiation after the end of the European war. This was gaining every thing, because it confirms our neutrality, by which our citizens are gaining every thing. This alone would justify the engagements of the government. When the fiery vapors of war lowered in the skirts of our horizon, all our wishes were concentrated in this, that we might escape the desolation of the storm. This treaty, like a rainbow on the edge of the cloud, marks to our eyes the space where it is raging, and affords, at the same time, the sure prognostic of fair weather. If we reject it, the vivid colors will grow pale; it will become a baneful meteor, portending tempest and war.

“Let us not hesitate, then, to agree to the appropriation to carry it into faithful execution. Thus shall we save the faith of our nation, secure its peace, and diffuse a spirit and enterprise that will augment its prosperity. The progress of wealth and improvement is wonderful, and some will think too rapid. The field for exertion is fruitful and vast. The rewards of enterprise go to aug-

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ment its power. Profit is every hour becoming capital. The vast crop of our neutrality is all seed-wheat, and is sown again to swell, almost beyond calculation, the future harvest of prosperity. In this progress, what seems fiction is found to fall short of experience.

“ When I come to the moment of deciding the vote, I start back with dread from the edge of the pit into which we are plunging. In my view, even the minutes I have spent in expostulation have their value, because they protract the crisis, and the short period in which alone we may resolve to escape it. Yet I have, perhaps, as little personal interest in the event as any one here. There is, I believe, no member who will not think his chance to be a witness of the consequences greater than mine. If, however, the vote should pass to reject, and a spirit should rise, as it will, with the public disorders to make confusion worse confounded, even I, slender and almost broken as my hold on life is, may outlive the government and Constitution of my country !”

Vice-president Adams, who heard this speech from the gallery, gave a graphic account of it in a letter to his wife. “ Judge Iredell and I happened to sit together. Our feelings beat in unison. ‘ My God ! how great he is,’ says Iredell ; ‘ how great he has been !’ ‘ Noble !’ said I. After some time, Iredell breaks out, ‘ Bless my stars ! I never heard any thing so great since I was born.’ ‘ Divine !’ said I ; and thus we went on with our interjections, not to say tears, to the end. Tears enough were shed. Not a dry eye, I believe, in the House, except some of the jackasses who had occasioned the necessity of the oratory. These attempted to laugh, but their visages ‘ grinned horribly ghastly smiles.’ They smiled like Foulon’s son-in-law when they made him kiss his father’s dead and bleeding head

The situation of the man excited compassion, and interested all hearts in his favor. The ladies wished his soul had a better body." CHAPTER  
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The question was to have been taken immediately after Ames's speech, but, alarmed for the effect it might produce, the opposition carried an adjournment. The next day, three more speeches were made for the treaty, one by Dayton, the speaker; but nobody attempted to answer Ames. The opposition had claimed a majority of ten. In the course of the debate, this claim had sunk to six. The vote, when it came to be taken, April 29, stood forty-nine to forty-nine. The responsibility of a decision was thus thrown on Muhlenburg, the chairman of the Committee of the Whole. He voted for the resolution, excusing himself to his party by suggesting that it was yet to be acted upon, and might be amended in the House.

In the House, Dearborn proposed to amend by inserting a preliminary paragraph, declaring the treaty highly objectionable. But so loud was the protest against this maneuver to compel the friends of the treaty to concur in passing a censure on it, that Dearborn finally agreed to offer his amendment by way of preamble, so as to admit of a divided vote. The word "highly" was first struck out of this proposed preamble by the casting vote of the speaker. Parker of Virginia, as he was against the resolution in every shape, declared that he would have nothing to do with making a preamble for it. He voted, therefore, against Dearborn's motion, which was lost, fifty to forty-nine. The unamended resolution, declaring that it was expedient to pass the laws necessary for carrying the treaty into effect, was then agreed to, fifty-one to forty-eight, Bailey of New York, who had voted for the amendment, voting now for the un-

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amended resolution. Only four New England members voted against it, Israel Smith of Vermont, and Dearborn,

1796. Varnum, and W. Lyman of Massachusetts. From the states south of the Potomac, there were only four votes in its favor, Hancock of Virginia, Grove of North Carolina, and Smith and Harper of South Carolina. The New Jersey members all voted for it, and from Maryland there was but one vote against it. Pennsylvania and New York were for it, two to one.

No one, perhaps, was more vexed and mortified at this decision than Jefferson, who has left ample evidence in his published letters of the interest with which he watched the progress of the debate, and of the vigor with which he stimulated the opposition. Yet, in two several instances at least, while a member of Washington's cabinet, he had maintained the existence, in the president and Senate, of the treaty-making power to its full extent. He had supported, in the case of the treaty with the Creeks, the right to insert an article providing for the admission of McGillivray's goods free of duty, and the effect of such an article, by its own vigor, to repeal, to that extent, the revenue laws of the United States. With reference to the Algerine negotiation, he had assured the president that, if the payment of a sum of money were stipulated by treaty, the House would be bound to furnish it. But, as in the matter of the assumption of the state debts, which he had first aided, and had afterward, the popular current setting that way, denounced as an atrocious piece of corruption, so he now found no difficulty in going all lengths with the opposition. In a letter to Madison, pending the discussion, he eulogized Gallatin's speech on the resolution calling on the president for Jay's correspondence, "as worthy of being printed at the end of the Federalist, as the only

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rational commentary on the part of the Constitution to CHAPTER  
VIII which it relates." Indeed, he could not see. "much harm in annihilating the whole treaty-making power, except as to making peace." "If you decide in favor of your right to refuse co-operation in any case of treaty, I should wonder on what occasion it is to be used, if not in one where the rights, the interests, the honor, and faith of our nation are so grossly sacrificed; where a faction has entered into a conspiracy with the enemies of their country to chain down the Legislature at the feet of both; where the whole mass of your constituents have condemned this work in the most unequivocal manner, and are looking to you as their last hope to save them from the effects of the avarice and corruption of the first agent, the revolutionary machinations of others, and the incomprehensible acquiescence of the only honest man who has assented to it. I wish that his honesty and his political errors may not furnish a second occasion to exclaim, 'Curse on his virtues, they have undone his country!'"

In the same strain was the famous letter to Mazzei, written about this time, and the unexpected publication of which a year afterward combined with other circumstances to bring the hitherto friendly relations between Washington and Jefferson to a final termination. "The aspect of our politics," said this famous letter, "has wonderfully changed since you left us. In place of that noble love of liberty and republican government which carried us triumphantly through the war, an Anglican, monarchical, aristocratic party has sprung up, whose avowed object is to draw over us the substance, as they have already done the forms, of the British government. The main body of our citizens, however, remain true to their republican principles; the whole landed interest is re- April 21

• CHAPTER VII. publican, and so is a great mass of talents. Against us  
 1796. are the executive, the judiciary, two out of three branches  
 of the Legislature, all the officers of the government, all  
 who want to be officers, all timid men who prefer the  
 calm of despotism to the boisterous sea of liberty, British  
 merchants and Americans trading on British capital,  
 speculators and holders in the banks and public funds,  
 a contrivance invented for the purposes of corruption,  
 and for assimilating us in all things to the rotten as well  
 as the sound parts of the British model. It would give  
 you a fever were I to name to you the apostates who  
 have gone over to these heresies, men who were Samsons  
 in the field and Solomons in the council, but who have  
 had their heads shorn by the harlot England. In short,  
 we are likely to preserve the liberty we have obtained  
 only by unremitting labors and perils."

But while throwing out on all sides, among his cor-  
 respondents and associates, these damaging insinuations  
 against Washington—poor man, honest indeed, but the  
 tool and dupe of rogues, and likely to be the ruin of his  
 country—Jefferson cowered before the president's in-  
 fluence and popularity, and still wished to continue to  
 stand well with one, an open breach with whom might  
 prove an obstacle in the way of his political aspirations.  
 "You will have seen, by the proceedings of Congress,"  
 June 12 he wrote to Monroe, "the truth of what I always ob-  
 served to you, that one man outweighs them all in in-  
 fluence over the people, who have supported his judg-  
 ment against their own and that of their representatives."  
 Manfully to encounter the personal opposition of one so  
 potential with the people required more courage than  
 Jefferson possessed; at least, it did not suit his under-  
 mining system of political warfare. A publication of  
 the questions confidentially submitted to the cabinet

as to the reception of Genet, and the binding effect of the French treaty, having appeared in the *Aurora*, designed to prejudice the president in the minds of the partisans of France, and which could only have become public by a betrayal of confidence, Jefferson hastened, in a letter to Washington, to disclaim, with vehement asseverations, the having communicated this paper, or, indeed, any thing else, to any of the public prints, all connection with which, direct or indirect, he positively disavowed. Thence he diverged into a virulent attack upon General Lee, as trying "to sow tares" between him and Washington, by representing him "as still engaged in the bustle of politics, and in turbulence and intrigue against the government," and especially by having reported the tone of political conversation, by no means complimentary to Washington, in which Jefferson was accustomed to indulge at his own table. After a somewhat singular request in one so abstracted from politics, for a copy of a confidential cabinet opinion given by Knox and Hamilton on a point in which they had differed from himself—for, though he did not know that it would ever be of the least importance to him, "yet one loves to possess arms, though they may never have occasion for them"—this letter winds up, like most of Jefferson's political letters of this period, with quite a long dissertation on pease, clover, and threshing machines.

Washington replied that, as he knew well whence came the paper published in the *Aurora*—the allusion probably was to Randolph—Jefferson's assurances on that head were unnecessary. "As you have mentioned the subject yourself, it would not be frank, candid, or friendly to conceal that your conduct has been represented as derogating from that opinion I had conceived you entertained of me; that to your particular friends and

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connections you have described and they have denounced me as a person under a dangerous influence, and that,

1796. if I would listen more to some other opinions, all would be well. My answer invariably has been, that I had never discovered any thing in the conduct of Mr. Jefferson to raise suspicions in my mind of his insincerity; that, if he would retrace my public conduct while he was in the administration, abundant proofs would occur to him that truth and right decisions were the sole objects of my pursuit; that there were as many instances within his own knowledge of my having decided against as in favor of the opinions of the person alluded to [Hamilton]; and, moreover, that I was no believer in the infallibility of the politics or measures of any man living. In short, that I was no party man myself, and that the first wish of my heart was, if parties did exist, to reconcile them.

“To this I may add, and very truly, that until within the last year or two I had no conception that parties would or could go the length I have been witness to, nor did I believe until lately that it was within the bounds of probability, hardly within those of possibility, that, while I was using my utmost exertions to establish a national character of our own, independent, as far as our obligations and justice would permit, of every nation on the earth, and wished, by steering a steady course, to preserve this country from the horrors of a desolating war, I should be accused of being the enemy of one nation and subject to the influence of another; and, to prove it, that every act of my administration would be tortured, and the grossest and most insidious misrepresentations of them be made, by giving one side only of a subject, and that, too, in such exaggerated and indecent terms as could scarcely be applied to a Nero, a no-

torious defaulter, or even to a common pickpocket. But enough of this: I have already gone further in the expression of my feelings than I intended." Coming thus to an abrupt conclusion, without any reference to the paper which Jefferson had asked for, Washington did not withhold his customary expressions of regard and esteem; but this was the last letter, so far as now appears, that ever passed between him and Jefferson. They had, indeed, reached a point where their views of the public interest became fundamentally different, while their ideas appear to have differed not less fundamentally as to the honorable method and lawful weapons of political warfare. Washington thought positive proof necessary to sustain political accusations, especially when they involved the charges of corruption and treason; Jefferson was ever ready to proceed upon surmise, conjecture, and the promptings of suspicion and hatred. Washington was no believer in the political infallibility of any man; while Jefferson, in the true spirit of party fanaticism, never hesitated to denounce as fools, dupes, or knaves all who presumed to differ from that varying view of political affairs which the passions, the prejudices, the interests of the moment led him to take.

The great question of the British treaty having been disposed of, and a peaceful and profitable intercourse with Great Britain for ten years longer thus secured, it only remained for Congress to mature and pass the bills under discussion during the previous part of the session. Meanwhile, the necessary appointments were made for carrying the treaty into effect. Knox, and, on his declining, Howell of Rhode Island, was made commissioner for ascertaining the true St. Croix; Fitzsimmons and James Innes, the latter succeeded presently by Sitgreaves, were appointed commissioners on the subject of British

CHAPTER debts; and Christopher Gore, late district attorney of  
VIII. Massachusetts, and William Pinkney of Maryland, com-

1796. missioners on the matter of British spoliations. Thomas Pinckney had returned from Spain to England, but, as he desired a recall, Rufus King was appointed to succeed him. Humphreys was appointed minister to Spain in place of Carmichael, who was dead, Short being recalled at his own request. J. Q. Adams having been appointed to succeed Humphreys at Lisbon, his place at the Hague was presently given to Murray.

An act regulating intercourse with the Indians established a boundary-line along the whole extent of the Western frontier, beyond which no white man was to be allowed to go either for hunting or pasturage, nor, south of the Ohio, for any purpose whatever, without a passport from the governor of some state, from the officer of the nearest post on the frontier, or from some other person authorized by the president to grant passports. Commencing on Lake Erie, at the mouth of the Cuyahoga, where the town of Cleveland now stands, this line followed the Indian boundary of Wayne's treaty to a point on the Ohio opposite the mouth of the Kentucky River. Thence it descended the Ohio (including, however, Clarke's grant on the north bank, opposite Louisville) to the promontory formed by the extremity of the dividing ridge between the rivers Cumberland and Tennessee. Turning there to the southeast, it followed that ridge to a point forty miles above Nashville. Thence, striking off northeast to the Cumberland River, it ascended that stream to the Kentucky crossing, not far from the southwesternmost point of the State of Virginia. Thence in a general southerly, but zigzag direction, the Cherokee boundary was followed to the head of the main south branch of the Oconee River, called the Appalachee.

Descending the Oconee to its junction with the Altama-  
ha, from the lower part of that river the line extended, CHAPTER  
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by the Creek boundary, south to the St. Mary's. The 1796  
establishment of this line secured to the Indians a good  
half of the territory between the Atlantic and the Mis-  
sissippi, divided, however, into a northern and a southern  
portion by the intervention of Kentucky.

The president might remove by force any persons attempting to settle west of the Indian boundary. In-  
trusion beyond it, for making surveys or for any other  
illegal purpose, was made punishable by fine and impris-  
onment, and by forfeiture of the title under which the  
surveys were made. In case of robbery or any other  
trespass on the person or property of Indians, besides the  
punishment of the offender, there was to be a pecuniary  
reparation to the sufferer, to be made by the United  
States if the offender had no property. But this pecuni-  
ary reparation was to be withheld in case of any attempt  
by the sufferer or his tribe at private revenge or satis-  
faction by force or violence. The murder of Indians was  
made punishable by death.

In case of injuries committed by Indians in the terri-  
tories belonging to the whites, application for redress was  
to be made through the Indian agents, or other persons  
appointed for that purpose, to the president, who was to  
demand, and, after waiting a proper time, to take such  
means as he saw fit for enforcing reparation. Indemnity,  
meanwhile, was to be made to the sufferers by the United  
States out of the Indian annuities, if it were judged ex-  
pedient, but only on consideration that no attempt were  
made to obtain private revenge or redress by crossing the  
Indian boundary. Any Indian caught within the white  
limits in the commission of crime might be tried and  
punished by the local tribunals. All white violators of

**CHAPTER** the act might be arrested in the Indian territory by the  
**VIII** military force of the United States, to be carried within  
**1796.** ten days for trial to the federal civil authorities in some  
one of the three next adjoining states or districts.

None could trade with the Indians without license, under penalty of forfeiture of their goods, fine, and imprisonment; nor were traders allowed to purchase from the Indians any gun, instrument of husbandry, cooking utensils, or articles of clothing, except skins or furs, nor horses, except by special license. All conveyances, sales, and leases of Indian lands, except by public treaty with the United States, were declared void.

The president was also authorized to furnish the Indians with domestic animals, implements of husbandry, or other useful articles at his discretion, and to appoint temporary agents to reside among them for their comfort and instruction, at an expense not exceeding \$15,000 annually. By another act, the president's plan of public trading-houses was carried out, \$150,000 being appropriated for that purpose, the goods to be sold at such prices as to keep up the capital. As this was an experiment, the appropriation was limited to two years; but the scheme, on trial, proved so beneficial as to be adopted as a regular part of the Indian system. Under the strict enforcement of these judicious provisions, the barbarous predatory war which had prevailed on the frontiers for twenty years past was finally brought to an end, and several of the Indian tribes, especially the Southern ones, began to make a certain advance in civilization. This act did not extend to the Six Nations and other smaller tribes living on reservations east of the line above described, and within the jurisdiction of particular states.

The peace with the Indians having opened the way for the sale and settlement of the public lands north of

the Ohio, an act was passed for that purpose, based on CHAPTER VIII. the ordinance of the Continental Congress. It created the office of surveyor general, and directed the survey 1796. of the lands, not surveyed already or reserved for military bounties, into townships of six miles square, by lines crossing each other from north to south and east to west. The alternate townships were to be subdivided into thirty-six sections, each a mile square, the others into quarters. These alternate townships were to be sold by sections at public vendue, in the territory, at the upset price of two dollars an acre, reserving the four sections in the center of the township for the use of the United States. The quarter section townships were to be sold at the treasury at the same upset price, payments to be made one half down and the balance in a year, with ten per cent. discount for immediate payments. Considerable difference of opinion existed as to the price to be asked for the lands, and as to the sale in large or small tracts. A certain number of the members from the older and more settled states were very doubtful as to the policy of extraordinary encouragement to emigration, tending, as it did, to the increase of a backwoods population, rude, unsocial, and discontented, whose insubordination, and violence, and threats of secession had already occasioned so much trouble, expense, and anxiety. They were therefore opposed to the sale by sections, which was urged by others, together with a high upset price, as a means of preventing these Western lands from falling exclusively into the hands of speculators, as had been to so great a degree the case with the public lands of the states. The sale by sections was objected to by Dearborn, Nicholas, and others, as likely to retard the disposal of the lands, for which they expressed great anxiety, as a means toward paying the public debt.

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Harper, on the other hand, exposed with great ability the disadvantage of a sale in large tracts, as established 1796. by the experience of the states, resulting in great emoluments to individuals, small produce to the treasury, and scattered, irregular, and desultory settlements. The plan finally adopted was a compromise, suggested by Gallatin, between these opposite views. Another act provided for the survey of the tract between the Scioto and the Muskingum, reserved for the location of military land warrants, in which an extensive speculation had already commenced.

The prospect had been held out that the public buildings at the new federal city on the Potomac would be erected without any expense to the United States. The donations for this purpose, of \$120,000 by Virginia, \$72,000 by Maryland, and of half the lots in the new city transferred to the United States by the owners of the land, in addition to the necessary spaces for streets, squares, and public buildings, have already been mentioned. It appeared from the report of the commissioners for the erection of the public buildings that six thousand of these lots had been sold to a company for the sum of \$480,000, payable in seven years, the company contracting to build, prior to 1800, a hundred and fifty convenient brick houses, and not to part with any of their lots except on condition that one brick house should be erected for every three lots sold. Other lots disposed of by the commissioners had produced the sum of \$95,652, making, with the donations of Maryland and Virginia, an amount of \$768,000; but a part of the purchase money of the lots was not yet payable. There still remained in the hands of the commissioners four thousand seven hundred lots, valued at \$1,300,000. The sums received had been applied toward laying a foundation for

the Capitol, and in commencing the erection of a house for the president. To enable them to go on, so as to be ready for the reception of the government in the year 1796. 1800, the commissioners had asked for power to raise on mortgage of the unsold lots a loan, to be guaranteed by the United States, to the amount of \$300,000. That guarantee was accordingly given by an act passed for the purpose; but the speculation in the new city, pushed at first with great ardor, had already received a check. Great difficulty was experienced in raising the loan, owing principally to the pressure in the money market occasioned by the extent to which speculation of all kinds had been carried; nor could more than \$200,000 be obtained, and that of the State of Maryland, in United States six per cent. stock, then considerably below par.

The subject of the impressment of American seamen had been early brought before the House in a speech by Edward Livingston, in which he assailed Jay with great vehemence because he had not provided for this matter in the treaty. A committee had been raised to take the subject into consideration, and finally an act was passed authorizing the appointment of two or more agents, one to reside in Great Britain, the others at such points as the president might designate, to investigate and to report to the State Department an account of all impressments, with authority also to seek the relief of the sufferers, for which purpose \$15,000 were appropriated. Collectors were required to grant certificates of citizenship to all American seamen; and all captains whose men were impressed were required to make duplicate protests stating the fact, one to be sent to the nearest American consul, and the other, on the return of the vessel, to the Department of State; the master also, be-



CHAPTER fore entering his vessel, to render on oath an account of  
VIII all seamen impressed from him during the voyage.

1796. Livingston also brought up the subject of the amelioration of the penal laws of the United States, but no action was had upon it. An act, however, was passed for the discharge, on taking the poor debtor's oath, of prisoners held for debt on civil process from the United States courts.

In consequence of the peace with the Indians, the military establishment underwent some reduction. It was henceforth to consist of the corps of artillerists and engineers as already organized, two companies of light dragoons, and four regiments of infantry, of about 450 men each, making a total force of 2800 men, to be commanded by a major general and a brigadier general.

A good deal of delay had taken place in obtaining timber and commencing the frigates under the act of 1794. Three, however, had been begun, and these, notwithstanding the peace with Algiers, no treaties having yet been formed with Tunis and Tripoli, it was resolved to finish. The commercial representatives strongly urged, also, that a nation possessing so large a commercial marine, and whose coasts and harbors were liable to perpetual visits and annoyances from the belligerent cruisers, should not be entirely without ships of war. The finishing of these frigates encountered a most vehement resistance from most of the members of the opposition. Nicholas wished them to rot on the stocks, as an instructive monument of national folly. Christie, of Maryland, did not care if they were reduced to ashes. Giles always had opposed a navy, and always should oppose it, in every shape. But upon this point Smith of Baltimore, Parker of Norfolk, Swanwick of Philadelphia, and a few others, voted with the Federalists.

The three frigates, built respectively at Boston, Philadelphia, and Baltimore, rudiments of the existing navy, all greatly distinguished in our naval annals, and all still afloat (1853), received the names of the Constitution, the United States, and the Constellation. 1796.

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By the original act regulating the pay of members of Congress, the senators, after the termination of the present session, were to be entitled to seven dollars per day, while the pay of the representatives remained fixed at six dollars. The origin of this provision has been already mentioned, but the representatives were by no means disposed to submit to it. A new bill brought into the House, while it provided for the equal payment of both branches, proposed to substitute for a daily allowance an annual stipend. Such a provision, it was said, would tend to shorten the sessions. But this idea of shortening the sessions appeared very alarming to Giles, Madison, and others, as tending to increase the power and importance of the executive. Before any attempt had been made to fill the blank, the annual stipend was struck out, and the old rate of payment of six dollars per day was finally continued to the members of both houses.

A resolution offered by Madison for an inspection and survey of the great post-road from Maine to Georgia may be considered the first step taken in Congress toward a system of internal improvements at the federal expense. It was suggested that the inquiry might be beneficially extended to all parts of the Union, and that the expense of it ought to be a charge, not on the post-office, but on the treasury. A committee was appointed to bring in a bill; but some jealousy on the part of the Northern and Eastern members that this was a scheme to obtain roads for the Southern States and the new set-

CHAPTER VIII. — tlements at the expense of the Union seems to have prevented any action on it. Jefferson, in a private letter 1796. to Madison, strongly questioned the constitutional power of Congress in the matter. However the exigencies of party might have modified Madison's conduct, and even his expressed opinions, his ideas of constitutional interpretation and of the powers of the general government—belonging, as he did in that respect, to the Federal school—were on several important points fundamentally different from those of Jefferson.

The appropriations for the service of the current year, with the annual provision for the public debt, amounted to about \$6,600,000, besides some unexpended appropriations of former years. The produce of the revenue was estimated at \$6,300,000; but it was necessary to provide also for an installment of the Dutch debt, amounting to \$414,100, and for at least \$900,000 of the temporary loans. There was due to the Bank of the United States six millions of dollars, being the entire amount of the temporary debt, except \$200,000 due to the Bank of New York. This debt had grown out of the subscription to the bank stock, the extraordinary expenses of the Indian war, the whisky insurrection, the Algerine treaty, and the advance by the bank the year before of \$660,000 toward an installment of the French debt. A part of this amount was payable by installments extending through several years; but the larger part had been obtained on short loans, renewed from time to time, and not less than \$4,400,000 was demandable within the current year. The bank pressed very earnestly for payment, and finally an act was passed, not, however, without a vigorous opposition, by which the Commissioners of the Sinking Fund were authorized, toward discharging these liabilities and meeting the deficiencies of the cur-

rent year, to raise a new loan of five millions of dollars as a permanent addition to the funded debt. The attempt, however, to raise this loan at par proved a failure; and, instead of selling the stock at a discount, which, as to a part of it, they were authorized to do, the commissioners preferred to avail themselves of another alternative in the bill, by the sale of a part of the bank stock to the amount of \$1,000,000, the debt to the bank undergoing, as to the larger part of it, a further renewal. The necessity of some further addition to the revenue, as evinced by the accumulated deficiencies, was admitted by the Committee of Ways and Means; but definitive action was postponed till the next session, the Secretary of the Treasury being directed to prepare meanwhile a report on the subject.

Under the terms of the act constituting the Territory south of the Ohio, the inhabitants claimed the right, whenever they should reach the number of sixty thousand, to form a state government, and to be admitted into the Union. A constant tide of immigration, principally from North Carolina, had set, of late, into that territory. The first newspaper had been established at Knoxville in 1793. According to a census taken in the autumn of 1795, the population amounted to 67,000 freemen and 10,000 slaves; and, as soon as this number was ascertained, a Convention had been held, and a Constitution adopted for the State of TENNESSEE.

By the provisions of this Constitution, the right of suffrage was given to every freeman a resident in any county for six months; all elections to be by ballot. The representatives, never more than forty nor less than twenty-two, were to be apportioned among the counties in the ratio of taxable inhabitants, to be ascertained every seven years. The senators, not to exceed one third

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the number of the representatives, were to be apportioned among Senate districts in the same ratio ; these districts

1796. to be so arranged as not to divide any county, nor to unite counties not adjoining, nor to give to any district more than three senators. This arrangement, being a departure from the North Carolina model of one senator and two representatives for each county, was copied from the Constitution of Pennsylvania. The qualification to sit in the Assembly was three years' residence and the possession of two hundred acres of land ; but no minister of the Gospel of any denomination, no person holding office under the United States, and no person intrusted with public money of the state whose accounts were unsettled, could sit in either house. The general appointing power to all offices was vested in the two houses ; but they were forbidden to appoint their own members except as justices of the peace.

The governor, who must be possessed of not less than five hundred acres of land, was to be elected by the people, to hold office for two years. He had the pardoning power, and the right to make temporary appointments during the recess of the Legislature.

The regulation of the judiciary was intrusted to the Legislature, the judges, however, to be appointed for good behavior. They were forbidden to charge juries as to matters of fact, but might direct them as to the law, a rule borrowed from the practice of Maryland. No new county could be laid off to contain less than six hundred and twenty-five square miles. Knoxville was to remain the seat of government till 1802. The code of North Carolina, recognized by the Territorial Legislature as in force, was adopted also by the Constitution, thus tacitly legalizing the system of slavery, to which, in the Constitution, no direct allusion was made.

The Legislature was forbidden to interfere with the rights of conscience by compelling any one to attend upon, or to assist in erecting or supporting any place of worship; or by giving any legal preference to any mode of worship or religious establishment. The bill of rights provided that no religious test should ever be required as a qualification for any public office or trust. Yet, by the body of the Constitution, no person who denied the being of a God, or a future state of rewards and punishments, could be elected to any office.

Sevier, the hero of the extinct State of Frankland, had been elected governor, and a Legislature chosen under this new state Constitution had met at Knoxville. Blount, the late territorial governor, and William Cooke, were chosen United States senators; and a transcript of the census, with the new state Constitution, was transmitted to the president, by whom they were laid before Congress.

The committee of the House to whom this message was referred reported in favor of admitting the new state; but this report met with some opposition. The Federalists were but little disposed, just at the approach of a presidential election, likely to prove a close test of the strength of parties, to increase the force of the opposition by admitting a new backwoods state. It was objected that the census ought to have been taken, and that the proceedings for the erection of the new state should have been had under the authority of Congress. Some faults were also found with the Constitution; but the report of the committee was finally adopted, forty-two to thirty, and a bill was ordered to be brought in for admitting the new state.

A different view prevailed in the other house. A committee reported, and the Senate agreed, that it rest-

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ed with Congress to decide, in the first place, how many states, whether one or more, should be formed out of the Territory, and that, although the entire territory might have a population of 60,000, no right of admission into the Union accrued until it had first been decided by Congress to embrace the whole in a single state. Since such seemed to be the disposition of the inhabitants, it was proposed, first, to ascertain their numbers by authority of Congress, and a bill for that purpose was brought in and passed. This method of procedure would have delayed the admission till the next session of Congress, if not, indeed, for a longer period. Meanwhile, the senators elect from the new state presented their credentials and claimed their seats. They were admitted to the floor, but only as "spectators," till the matter should be decided. The Senate bill was so amended in the House as to recognize and admit the new state at once; and in that shape, after a conference between the two houses, it finally became a law on the last day of the session. The senators elect from the new state thereupon again claimed their seats; but this was refused by the Senate on the ground that their credentials were of a date prior to the act admitting the state into the Union. The new state, like the territory from which it had been formed, consisted of two detached settlements, the one on the head waters of the Tennessee, in the valleys of the Allegany chain, the other in the district about Nashville, the two together embracing hardly a fifth part of the area within the nominal boundaries of the state, and entirely separated from each other by intervening tracts of Indian territory.

It was not alone on the southwestern frontier that population and settlement were making rapid progress. The same was the case in Vermont, the upper part of

New Hampshire, and the District of Maine. The people of that district still entertained the project of being constituted as a separate state, a privilege to which they considered themselves as much entitled, both by population and resources, as either Kentucky or Tennessee. But Massachusetts, and an influential body of the inhabitants themselves, were as yet unwilling, and the separation was delayed for a quarter of a century longer. A college had recently been established in Maine, at Brunswick, on the Lower Androscoggin, named Bowdoin, after the late distinguished patriot of that name, who had contributed to endow it. The school in Western Massachusetts, endowed by Colonel Williams, who had fallen during the French war in the battle of Lake George, had also been erected into a college, and named after its benefactor.

The building of expensive bridges across the Merrimac and Connecticut, attempts to render those rivers boatable by canals and locks around the falls by which they were impeded, and a canal undertaken on a larger scale to connect the Merrimac with Boston harbor, the first enterprise of the sort in America, evinced the increase of wealth consequent on the rapid extension of foreign commerce—a result still more apparent in the flourishing growth of the New England sea-ports. This increasing prosperity had given rise to some remarkable changes of political sentiment. The western counties of Massachusetts, some twelve years before the seat of Shays's rebellion, and at first strongly anti-Federal, now zealously supported the federal government, and at the late election for governor had given a decided majority for Sumner, the Federal candidate, who, however, had been again beaten by Samuel Adams. The strength of the opposition, calling themselves Republicans, was in



**CHAPTER** Boston and its vicinity, and in the District of Maine, the  
**VIII.** prejudices of the sea-faring people being constantly in-

- 1796.** flamed, and the recollections of the past revived by collisions with British cruisers. Convinced by experiment of the benefits of the Federal Constitution, and sharing largely in the rich harvest of commerce, Rhode Island had become decidedly Federal. Her state creditors, formerly paid off in depreciated paper money, had obtained, under the assumption of the state debts, the balance of their dues. New Hampshire, notwithstanding the influence of Langdon, who threw all his weight into the opposite scale, was also decidedly Federal. Vermont, in which recent settlers greatly predominated, inclined to the opposition; but the Federalists were gaining strength there. Connecticut, distinguished for the general intelligence as well as for the republican equality of her citizens, was a very warm and steady supporter of Washington's administration. The tract on Lake Erie, east of Pennsylvania, reserved by Connecticut out of her cession of Western claims, had been lately sold to a company of speculators for the sum of \$1,200,000, the
- 1795.** state giving a quit-claim deed, including her right of jurisdiction as well as her title to the lands; of which, however, half a million of acres had been previously granted to the sufferers by British depredations during the Revolutionary war. The Indian title to a part of the reservation being extinguished by Wayne's treaty, surveys had been commenced, and preparations were making by the new company for sale and settlement. The money received by the state, after some dispute as to its appropriation, had been constituted into a fund toward the support of common schools. It had been proposed to apply a part of it toward the support of the ministers, but that was given up. These ministers, an educated

and able body of men, placed in a state of independence by settlements for life, and enjoying the respect and affection of the great body of their parishioners, possessed, 1796 as well in this state as in Massachusetts and New Hampshire, a powerful political influence, thrown, with very rare exceptions, into the Federal scale. Exceeding all her sister states in density of population, but as yet without manufactures, except in a household way, and from want of good harbors not greatly interested in commerce, Connecticut furnished a large body of emigrants, who, as lawyers, physicians, teachers, editors, and traders, found their way into every state in the Union. The stream of the agricultural emigration, hitherto directed toward Vermont, had begun to pour itself into the fertile region of Western New York. The withdrawal of the British garrisons from the posts on the lakes removed some impediments which had hitherto existed. Indeed, hitherto the British commander at Niagara had taken it upon himself absolutely to prohibit any settlements on the south shore of Lake Ontario. The Oneidas and Onondagas of that region had recently made an additional cession, including the famous salt springs near Lake Onondaga, which thus passed into possession of the state. By a treaty with the Cagnawagas, or French Mohawks, settled on the St. Lawrence, near the northern boundary of New York, and lately associated with some other neighboring tribes, as the Seven Nations of Canada, the Indian title had been extinguished to the whole region between Lake Champlain and the St. Lawrence. This barren district, as well as the fertile tracts south of Ontario, were already in the hands of speculators, by some of whom fortunes were made, though this was very far from being the case with all of the original purchasers. The new population thus poured into New York began

CHAPTER VIII. to make itself felt in the politics of that state, and Federalism, supported by the Rensselaers, by Jay, and by Ham-

1796. iltou, gained somewhat over the influence of Clinton, the Livingstons, and Burr. In 1790, a proposition in the Assembly of New York to establish public schools had been hardly noticed; in 1795, an appropriation was made for this purpose of \$50,000 for each of the following five years, an additional amount of half that sum to be raised by the townships. Such was the commencement of the New York Common School system, though many years elapsed before it attained its present extension. A new college, under the influence of Presbyterians and other anti-Episcopalians, called Union, from the co-operation of several sects in its establishment, had lately been instituted at Schenectady.

A new attempt had been made at the recent session of the New York Legislature to abolish slavery, a measure which had in its favor the warmest wishes of Governor Jay. But on the question of compensation, which the slave-holders insisted upon, the bill failed in the House by a vote of thirty-two to thirty.

A curious dispute had arisen as to the appointing power under the Constitution of New York. That power was vested in the governor and a council of four members, one chosen from each of the four Senate districts. Governor Clinton had always claimed the right of nomination; but a Federal majority in the Council of Appointment had insisted upon making Egbert Benson a judge of the Supreme Court, notwithstanding Clinton's refusal to nominate him; and this controversy had been kept up till the end of Clinton's administration. Jay asked the Legislature to pass a declaratory law on the subject, though an amendment of the Constitution would seem to have been the true method. But neither party

was desirous to meddle with the matter, since both had formerly taken ground in conflict with their present interest, and thus the question still remained open for future contentions. It was settled, by an amendment of the Constitution, five years after, in favor of the council, the governor being thus reduced to be a mere member, with no more weight than any of the others.

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New York followed the example of Pennsylvania in establishing a penitentiary and in meliorating her penal code; but an attempt in Pennsylvania to imitate the appropriation made by New York for the support of public schools was opposed and defeated by the Quakers and the members of some other religious sects, on the ground that as they already supported schools of their own, they ought not to be taxed for the benefit of other people. The religious uniformity prevailing in New England made a system of public schools practicable there—such was the argument—but no such system would be possible in Pennsylvania, except upon the principle of no religious instruction, and that principle, it was said, was no better than heathenism. By such arguments the bill was defeated by the very persons who might have been expected to support it; and, very greatly to the social and political damage of Pennsylvania, the provision in the state Constitution requiring the establishment of a system of education by which the poor might be taught gratis remained for a long time unexecuted.

From being a decidedly Federal state, the politics of Pennsylvania had become very doubtful. The constant increase of the backwoods population, consisting, in a considerable proportion, of emigrants from Europe, chiefly from Ireland, bringing with them a bitter hatred of England and a high enthusiasm for French politics, con-

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tributed more and more to separate Pennsylvania from her old political sympathies with New England, and to 1796. subject her to the controlling influence of Virginia. Antipathy to New England was also nourished by the Wyoming controversy, still kept up. The repeal of the law confirming the Connecticut titles prior to the Trenton decree had left the whole body of the New England settlers in the Wyoming district exposed to ejectment suits. This process being found very slow and tedious, a bill was presently introduced in the Pennsylvania Legislature for driving out these intruders by an armed force, and burning their houses. This bill failed to pass; but the bitter antipathy of which it was the index tended to weaken the Federal party.

An attempt had been made, while the Indian war was still pending, to establish a settlement, under the patronage of the state, on that triangular tract, bordering on Lake Erie, which Pennsylvania had purchased of the general government. This attempted settlement had occasioned no little excitement among the Seneca tribe of the Six Nations, who claimed some title to the land; and, on the representations of the president, it had, in consequence, been temporarily suspended. It was now renewed, and the town of *Presque Isle*, since called *Erie*, was founded.

Simultaneously with this first settlement on the shores of Lake Erie, to which were presently added those soon after undertaken by the speculators who had purchased the Connecticut reserve, large emigrations also began to be made to the more southern settlements on the Muskingum and the Miami, the increase of which had hitherto been impeded by the Indian hostilities.

Whatever might be the case with Pennsylvania, the little State of Delaware, which had set the example of

ratifying the Federal Constitution, remained firmly attached to the Federal party. New Jersey also still continued a Federal state. Maryland inclined decidedly the same way, thus exhibiting an opposition to Virginia traceable through almost the whole course of her history. South of the Potomac the Federal party possessed hardly any political strength. While Washington leaned with confidence on New England, as he had done during the war of the Revolution, and received from that section of the Union a steady and enthusiastic support, very few measures indeed of his administration had found favor in his native state. Yet even there his personal weight and popularity were so formidable, that the political leaders found it convenient to draw a distinction not very well suited to the nature of our government, and which Washington himself expressly repudiated, between the personal views of the president and the policy and aims of the administration. North Carolina hitherto had passively followed the lead of Virginia. The only Southern state from which Washington's administration had received any substantial support was South Carolina. In that state there were several able and influential men who had been educated in England, and who did not participate in that bitter antipathy toward the mother country which seems to have been the leading principle of the Virginia politicians. On the great question of the assumption of the state debts, the interests of New England and South Carolina had been coincident, and they had also united against the Virginia scheme of retaliatory restrictions on British navigation and commerce. Yet the opposition party, led by Charles Pinckney and lately re-enforced by John Rutledge, kept the balance of power in that state exceedingly doubtful.

Other reasons aside, the dissatisfaction of Georgia

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**CHAPTER** with the Indian policy of the government—especially its  
**VIII.** refusal to allow the Creeks to be bullied or frightened  
**1796.** into the involuntary cession of the tract between the  
Oconee and the Oakmulgee—was enough to throw her  
decidedly into the opposition. At the present moment,  
attention in Georgia was chiefly engrossed, and the feel-  
ing against New England greatly excited, by the spec-  
ulative purchases, already referred to, of the pre-emption  
right to the lands west of the Chattahooche. Jackson,  
the Georgia senator, had resigned his seat, and procured  
himself to be elected a member of the state Legislature,  
for the very purpose of nullifying those sales, a business  
into which he entered with characteristic energy. The  
lands had been sold for the sum of \$500,000 to four sep-  
arate companies, the Georgia, the Georgia Mississippi,  
the Upper Mississippi, and the Tennessee. The right to  
become interested in these purchases to the extent of two  
millions of acres, on the same terms as the original mem-  
bers, was reserved by the act to the citizens of Georgia;  
and it appeared that of the members of the Legislature  
who voted for the bill, all except one did, in fact, become  
interested, under this provision, in one or more of the  
companies. Upon this state of facts, together with other  
general allegations of corruption and of the inadequacy of  
the sum paid, the Legislature of the present year passed a  
**Feb.** new act, revoking the sale as unconstitutional and void,  
and directing the repayment to the companies of their  
respective amounts of the purchase money, if called for  
within eight months; the several amounts uncalled for  
at the end of that period to be adjudged “derelict, and  
forfeit to the state.” As an additional evidence of the  
indignation of the Legislature, and a means, too, of de-  
stroying all proof of the existence of the grant, the orig-  
inal act authorizing the sale was ordered to be burned,

and all the records relating to it to be expunged. The burning was executed with great formality. The two houses, moving in procession for that purpose, were preceded by a committee bearing the obnoxious parchments. A fire having been kindled in front of the State House, the committee handed the documents to the President of the Senate, he to the Speaker of the House, he to the clerk, and the clerk to the door-keeper, by whose hands they were committed to the flames.

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Previous to this attempt to nullify the sale, the original purchasers, among whom were Patrick Henry, Judge Wilson, and other distinguished citizens, had already transferred their rights to others. These transfers had been made partly in South Carolina and the Middle States, but principally in New England, at a large advance on the original purchase money. Nor were these new purchasers at all disposed to concede the right of the Georgia Legislature to nullify the contracts of their predecessors, especially in a case like the present, where the interests of third parties were concerned. Hence loud complaints of unconstitutional breach of faith on the one side, and of corruption and fraud on the other. When these same lands were subsequently sold by Georgia to the United States, Congress, as we shall see, was loudly called upon for an indemnity to the claimants under the Georgia grants; but this claim was very vigorously contested, and near twenty years elapsed before the matter was brought to a final settlement.

A renewal of the treaty with the Creeks failed, indeed, to satisfy the Georgians, as no new cessions of land were obtained; but it put an end to the mutual depredations which had prevailed on that frontier, and provided for the restoration of prisoners and property captured by the Indians. The mutual boundaries of the

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CHAPTER <sup>VIII.</sup> Creeks, Chickasaws, and Choctaws were settled by the same instrument; and, in consideration of an additional 1796. annuity of \$6000, and the providing the Creeks with two blacksmiths, the right was obtained to establish within their territory such posts and trading-houses as the president might think necessary. Thus was completed the system of Indian pacification, to which the violence of the backwoodsmen, and their disregard of the rights of the Indians, had long opposed such serious obstacles, but which Washington had so much at heart, and which does so much honor to his administration.

## CHAPTER IX.

RELATIONS WITH FRANCE. MISSION AND RECALL OF  
MONROE. PRESIDENTIAL ELECTION. SECOND SESSION  
OF THE FOURTH CONGRESS.

**J**AY'S treaty relieved the country from the immediate CHAPTER  
IX and pressing danger of a British and Indian war. But 1796. as respected relations with France, it exposed the administration to new and very serious embarrassments. In their verbal assent to the position of neutrality assumed at the breaking out of the war by Washington's proclamation, neither the administrators of the French government, nor their numerous and enthusiastic partisans in the United States, had contemplated any thing more than a sort of trick upon Great Britain. They were willing that the United States should secure, if they could, so far as Great Britain was concerned, the advantages of a neutral position; but they expected that substantial aid and service would at the same time be rendered to France, not only by giving a most liberal construction to every provision of the treaty in her favor, but by stretching indulgence even beyond. Such a course of policy, at once weak and treacherous, was entirely repugnant to Washington's temper and judgment; and the steadiness with which he had maintained a real neutrality had greatly disappointed both the French government and their partisans in America. It was impossible for them, inflamed as they were by the most excited feelings, to reconcile such a course of even-handed impartiality with the obligations, direct or implied, growing out of the treaties; with that friendship for France which, on

CHAPTER all public occasions, Washington uniformly expressed ;  
IX and still less with that sympathy and fraternity which,  
1796. as they thought, ought to exist between two sister republics. Hence, even before Jay's mission, the belief on the part of France and her partisans that Washington's administration was secretly hostile to the French cause. Not to take an active part against the "conspiracy of kings," however such a course might have been useless to France and ruinous to the United States, seemed like treachery to the rights of man, and a mean subservienoy to hated England.

This view of the feelings and policy of the American administration, constantly held forth, in the diplomatic correspondence of Genet and Fauchet, and countenanced by the tone of the opposition newspapers, received additional confirmation in the minds, first of the Girondists, and then of the Jacobins, by whom the affairs of the French republic were successively administered, from the opinions and conduct of Gouverneur Morris, Jefferson's successor as the representative of the American government in France. Amid all the tumultuous scenes which had attended and followed the formation and downfall of the first Constitution, the overthrow of the monarchy, the proclamation of the republic, the expulsion of the Girondists from the Convention, the triumph of the Jacobins, and the establishment of the Reign of Terror, Morris had discharged the duties of his difficult position with great tact and good sense, and with a strict adherence to Washington's system of exact neutrality. This alone might have been suffioient to render him obnoxious ; but there were other reasons also. Cool, sagacious, and having enjoyed the experience of one revolution, he shared but little in the prevailing political enthusiasm. He thought something more necessary for

the establishment of liberty than the proclamation of the rights of man and the overthrow of authority. He did not believe France capable of a republican government. His friends and associates had been chiefly among those denounced as Monarchists and Moderates. He had also been the friend of the unfortunate Louis—a circumstance which disqualified him from possessing the confidence of any of the republican factions which so rapidly succeeded and guillotined each other. While sending letters of recall to Genet, the Committee of Public Safety, in which Robespierre and his associates were predominant, solicited the recall of Morris. For reasons of policy, the president had yielded; but he wrote, at the same time, a private letter expressing his satisfaction with Morris's diplomatic conduct. That letter, sent by a British vessel, fell into the hands of the French government, and tended to increase the suspicions with which the American administration was regarded. In sending Monroe as the successor of Morris contemporaneously with the mission of Jay to England, Washington probably hoped that the appointment of so open and decided a friend of France would tend to mollify the French government, as well as the French party in the United States. It was probably expected that, by accepting the mission, Monroe would find himself, as Jefferson had done in the case of Genet, constrained to support the policy of the government, even against his own private inclinations—a support which could hardly fail to render that policy less obnoxious to the American friends of France. But there was a great difference between Jefferson writing under Washington's supervision, and with the keen eye of Hamilton upon him, and Monroe across the ocean, able, by a liberal interpretation of his instructions, to presume, however he might really know

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CHAPTER the contrary, that the policy which he himself approved  
IX. was that which the government intended to pursue.

1794. Care, indeed, had been taken to tie up his hands by reserving for discussion in America all new stipulations, either regarding the guarantee, or with respect to commerce or navigation. But with the new French politics, new maxims of private honor seem to have come into vogue, and neither his instructions, nor the general obligations of good faith to which he subjected himself by accepting the mission, prevented Monroe from adopting a course greatly at variance, as he could not but know, with the policy of the administration, for which he seemed inclined to substitute, as a guide, his own private and party political views.

Aug. 2. Monroe arrived in Paris shortly after the fall of Robespierre. The government had passed into the hands of those members of the Convention known as Thermadorians, who had combined to overthrow Robespierre's tyranny. But the Reign of Terror, in the atrocities of which many of these same men had largely participated, was yet by no means at an end. Most of the arbitrary decrees issued during that period still remained in force. Such were the laws relating to foreign commerce, which had originated partly in hatred of the Girondins, mostly of the class of merchants, capitalists, and manufacturers, and partly also in a real terror of the introduction of foreign influence and foreign gold through the channels of trade. All exterior commerce carried on by individuals had been abolished. The government was the only purchaser. Ship-masters arriving with cargoes in French ports had no option to sell or not; they were obliged to sell at all events. To pay for these purchases, principally provisions, of which there was a great scarcity in France, the government had nothing but as-

signats, already at a great discount, and rapidly depreciating. Even these it was difficult to get, and, when <sup>CHAPTER IX.</sup> obtained, they could not be laid out in the purchase of a 1794. return cargo without special license.

According to his own account, in an official letter in vindication of himself against the strictures of the State Department, Monroe found American affairs "in the worst possible condition." "Our commerce was harassed in every quarter and in every article, even that of tobacco not excepted"—a very poor return for the zeal of Virginia in the French cause. "American seamen, taken from on board our vessels, were often abused, generally imprisoned, and treated in other respects like the subjects of hostile powers. Our former minister was not only without the confidence of the government, but an object of particular jealousy and distrust. In addition to which, it was suspected that we were about to abandon them for a connection with England, for which purpose principally it was believed that Jay had been sent there." In consequence of unfavorable reports brought home by the officers of French ships of war, the friendly disposition toward America had greatly abated. Even Monroe, though his zeal for the French cause was well known, was received at first with marked coldness, it being naturally supposed that, having accepted an appointment from the American government, he must be prepared to conform himself to its policy. The Committee of Public Safety—in which the administrative functions continued principally to rest—or, at least, the controlling party in it, were disposed, according to Monroe's account, to delay his reception, indeed, to throw him entirely out of view, and so to destroy the effect of his mission. The connection between the two countries seemed to hang upon a thread, and Monroe insisted that if some

CHAPTER IX. person possessing, like himself, the confidence of the French had not been sent, that thread would have been 1794. broken.

From the moment of its institution, the French republic had been administered in the spirit of the most intolerant and unrelenting despotism. It had been, in fact, one continued reign of terror; imprisonment and the guillotine being the formidable instruments by which all opposition had been silenced. All this, however, had not in the least shaken Monroe's faith in the excellence or permanency of the new French political system, nor in the policy which he had brought with him from Virginia, of an intimate and fraternal union with France. In his eyes, and in those of many others, every excess was excused by the necessities of the war and the pressure from without. Had not a like necessity, less in degree, and therefore less noticeable in its effects, driven the revolutionary governments of America into many arbitrary and violent proceedings? Reeking, as it was, in the blood of so many victims, including the most illustrious founders of the Republican party, even Thomas Paine himself being in prison; trampling under foot every one of those rights of man and those principles of policy which its Constitution had proclaimed—a Constitution suspended as soon as made—Monroe saw, nevertheless, in the French republic the great avatar of European liberty, to which also America might look for guidance and instruction, as well as for protection against monarchists and aristocrats at home as well as abroad. Filled with these enthusiastic sentiments, his policy seems to have been to commit the United States to France so thoroughly and completely as to counterwork Washington's system of impartial neutrality. As a senator, he had not been able to prevent Jay's mission; as ambassador

to France, he might succeed in defeating it. With CHAPTER IX. these ideas, and this object in view, he was not long in coming to an understanding with the administrators of 1794. the French government.

On the ground that his application to the committee had not been answered, Monroe addressed a letter directly to the Convention, requesting them to fix the day and prescribe the mode in which he should be acknowledged "as the representative of their ally and sister republic." At the same time, he took occasion to testify his own "devotion to the cause of liberty," and to "assure them, in the most solemn manner, of the profound interest taken by the government and people of America in the liberty, the success, and the prosperity of the French republic." This letter, as soon as read, was referred to the Committee of Safety, and a report was soon brought in and adopted by the Convention to give the American minister a public reception the next day.

Monroe had been authorized by his instructions to declare the very friendly wishes of the president and of the people of the United States for the success of the French Revolution, and to contradict the reports believed to have been forwarded to France by Genet and others of two parties in the United States, one republican and friendly to the French Revolution, the other monarchical, aristocratic, British, and anti-Gallican. He had also been made the bearer of two letters from the Department of State, founded on resolutions adopted by the two houses of Congress, expressive, especially that on behalf of the House, of very decided sympathy for France, and written by way of reply to a letter from the French Committee of Public Safety addressed to Congress, and brought out by Fauchet.

Resolved to make the most public use of this author-



CHAPTER IX. ity and these documents, Monroe readily agreed to the  
pageant; indeed, it had doubtless been all arranged before his letter was written. Introduced into the Convention, he presented a written address (of which a French translation was read by one of the secretaries), expressing, very much in the prevailing style of the American Democratic societies, and with very little of diplomatic reserve, admiration alike of the fortitude, magnanimity, and heroic valor of the French troops, and of the wisdom and firmness of the French councils. To this address a reply was made by Merlin de Douay, president of the Convention—a comprehensive and pointed statement of what the French republic expected of America, all of which Monroe and the French-American faction were ready and anxious to grant. “The French people,” said Merlin, “have not forgotten that it is to the American people that they owe their initiation into the cause of liberty. It was in admiring the sublime insurrection of the American people against Britain, once so haughty, but now so humbled; it was in themselves taking arms to second your courageous efforts, and in cementing your independence by the blood of our brave warriors, that the French people learned in their turn to break the scepter of tyranny, and to elevate the statue of Liberty on the wreck of a throne, supported during fourteen centuries only by crimes and by corruption.

“How, then, should it happen that we should not be friends? Why should we not associate the mutual means of prosperity that our commerce and navigation offer to two people freed by each other? But it is not merely a diplomatic alliance; it is the sweetest, the most frank fraternity that must at the same time unite us, that, indeed, already unites us; and this union shall be forever indissoluble, as it will be forever the dread of ty

rants, the safeguard of the liberty of the world, and the preserver of all the social and philanthropic virtues !

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"In bringing to us, citizen, the pledge of this union, 1794. so dear to us, you could not fail to be received with the liveliest emotions. Five years ago, a usurper of the sovereignty of the people would have received you with the pride which alone belongs to vice, thinking it much to have given to the minister of a free people some tokens of an insolent protection. But to-day, the sovereign people themselves, by the organ of their faithful representatives, receive you ; and you see the tenderness, the effusion of soul, that accompanies this simple and touching ceremony ! I am impatient to give you the fraternal embrace, which I am ordered to give in the name of the French people. Come and receive it in the name of the American people, and let this spectacle complete the annihilation of an impious coalition of tyrants !"

At this word Monroe stepped forward, and received and returned Merlin's national embrace, thus publicly responding and assenting to the speech by which it had been introduced. The process verbal or minute of the sitting was ordered to be transmitted by the President of the Convention in a letter to the President of the United States. Monroe was even offered one of the confiscated hotels of the nobility as a place of residence ; but this he declined, on the strength of that clause of the Constitution which forbids the receiving, by any public officer, of any present or emolument from any foreign state.

This theatrical accolade, in which the American government had been itself made to play a part by the presentation of the letters written by the president's order on behalf of the two houses, was far from being approved of by the president and his cabinet. Randolph's official

CHAPTER letter to Monroe, written as soon as the news of these  
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1794. proceedings arrived in America, suggested that a private reception and an oral speech, not for publication, had been what the cabinet expected. His instructions did not justify "the extreme glow" of some parts of his address. The letter from the House of Representatives, which Monroe had presented as expressing the sentiments of the president also, ought to have been placed in no other light, so far as he was concerned, than as an execution of the task imposed upon him by that body. Before entering on such a public display of diplomatic civilities, the minister ought to have remembered that the United States were neutral, and that offense might be taken by England and Spain, with both of which nations important negotiations were then on foot. He ought to have considered that, some time or other, it might become necessary "to explain away or disavow an excess of fervor, so as to reduce it down to the cool system of neutrality." He was to cultivate the friendship of the French republic with zeal, indeed, but without unnecessary éclat. The dictates of sincerity did not demand that the United States should render notorious all their feelings in favor of the French nation.

Long before this rebuke arrived, Monroe had gone much further in the same road. The Convention having passed a decree for suspending in their hall the flags of the two republics intertwined together, in testimony of eternal union and friendship, Monroe took upon himself to send an American flag in the name of the American people. It was conveyed by the hand of Barney, a Baltimore ship-master, who had accompanied Monroe to France. Having served as a naval officer during the Revolutionary war, he had been lately nominated as a captain of the embryo American navy; but, as no emol-

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uments were yet attached to the appointment, he does not appear to have accepted it. In addition to a letter from Monroe, Barney delivered a speech of his own ; and, besides the fraternal embrace of the president, he received soon after a commission in the French navy and the command of two frigates—a service into which he entered with the more zeal, since his hatred of the British had been aggravated by the recent seizure in the West Indies of a trading vessel which he had commanded, and his own imprisonment for some alleged breach of neutral duties. In return for this flag, the Committee of Public Safety ordered the French colors to be sent to the Congress of the United States ; and Monroe thus had the satisfaction of getting up in America a reciprocal outpouring of political sentiment, the devotees of France joining in it with pure zeal, and the president and the Federalists out of policy. This, however, did not take place till more than a year after the Paris pageant. The French colors were long in reaching the United States, and their presentation only took place a short time previous to the commencement of the discussion in the House of Representatives on the ratification of Jay's treaty—an occasion, however, which made both parties the more zealous ; the opposition wishing to signalize their devotion to France, and the Federalists to escape the charge of a want of due affection for the sister republic. Presented on New Year's day by the French ambassador, with an address to which the president responded, these colors were ordered to be deposited with the archives of the nation. The president stated these facts in a message to both houses, at the same time sending the colors for exhibition ; and both houses, by unanimous resolutions, expressed their sensibility on the occasion. In the Senate, this outspread of sentiment was

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a little trimmed down, but in the House, where the opposition had the majority, the devotees of France were 1794. suffered to laud in their own terms that "magnanimous" nation—an epithet which the majority of the Senate refused to employ.

August. Immediately after his public recognition, Monroe found himself surrounded by American ship-masters and merchants, some claiming payment for cargoes which they had been forced to sell to the French government; some seeking the liquidation of dishonored bills, drawn by French agents in America in payment for provisions shipped to France or the French West Indies; some demanding indemnity for their losses by the Bordeaux embargo, by which a hundred American vessels had been detained for more than a year; some asking to be paid for their cargoes of provisions bound to England, but seized by French cruisers—a payment promised by the government, but not yet made; and others complaining that, in violation of the article of the treaty by which the mutual right was secured of carrying enemy's goods and enemy passengers, not only had their cargoes and passengers been taken from them, but their ships also had been detained. As there had been no American consul at Paris since Barclay's death, Monroe appointed temporarily to that office his secretary, Fulwer Skipwith, formerly a resident in some commercial capacity in one of the French West India islands, and not less a devotee of the French republic than Monroe himself. A formidable list of claims was soon drawn up by Skipwith; but as to those founded on breaches of the French treaty in the seizure of enemy's goods in American vessels, Monroe was disposed to make a remarkable concession. He applied, indeed, to the French Sept. 3. government to rescind the order authorizing such cap-

tures; but this application was based, not on the provisions of the treaty, but on an argument of which the object was to show that the repeal of the order would be for the pecuniary and commercial interests of France. He even went so far as to state that he had no instructions to complain of that order as a breach of the treaty, and that, should it be thought productive of any solid benefit to France, the American government and people would bear it, not only "with patience, but with pleasure." He justified this course, in his dispatches to the State Department, by referring to the silence of his instructions as to any particular remonstrances against this breach of the treaty, which he was inclined to suppose had been tacitly acquiesced in from the soundest motives of policy. As the French republic, "out of a spirit of magnanimity and a strong attachment to our welfare," had omitted to call upon us for the execution of the guarantee of the treaty of alliance, it seemed to Monroe but a corresponding piece of magnanimity on our part silently to acquiesce in any breaches of the treaty of commerce which the French might find convenient. But this view by no means corresponded with the intentions of the American government. In the same letter of rebuke, already quoted, Randolph peremptorily denied that Monroe's instructions afforded the least countenance for any such extraordinary assumptions and gratuitous assurances. The breach of the treaty by the order in question had been long since complained of to the French government by Morris. Monroe had been expressly instructed to demand indemnity for the vessels seized under it, for which there could be no pretense except on the ground of a breach of treaty. The guarantee, he was reminded, was a subject specially reserved for discussion in America. If the fear of a demand under that head

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CHAPTER IX. was to prevent all complaints on our part, of what use  
1794. was the treaty at all? Even allowing that friendship  
for the French republic might induce us to sustain an  
injury with pleasure, yet to submit to the invasion with-  
out consulting us of one of our rights might become a  
very dangerous precedent.

Before returning any answer to Monroe's applications  
for commercial redress, the French government seemed  
resolved to ascertain how far he might be willing to go.  
Nov. 5. Having stated to him the determination to push the war  
with vigor, particularly as against England, the diplo-  
matic members of the Committee of Public Safety wished  
to be informed whether any aid could be procured from  
America toward the relief of that pecuniary pressure  
under which the republic was suffering. To this deli-  
cate application Monroe did not hesitate to answer that  
any aid would be rendered in the power of the United  
States to give—such, at least, was his opinion; for, with  
all his adroitness at interpretation, he was not able to  
find in his instructions any authority for such assur-  
ances. Soon afterward he submitted a paper, suggest-  
ing three sources from which he thought money might  
be obtained: the states, the general government, and in-  
dividuals. But, to make the general government lend  
freely, France must agree to make no peace with Brit-  
ain or Spain which did not include a favorable settle-  
ment of the points in dispute between those nations and  
the United States. This matter should form a part of  
the instructions to the new French minister about to  
be sent to supersede Fauchet, recalled as of the Robes-  
pierre faction. In his dispatches to the State Depart-  
ment, giving an account of his doings in this behalf,  
Monroe urged with zeal the policy of a loan to the  
French. The amount wanted was about five millions

of dollars—a cheap price, Monroe thought, at which to hire France to fight our battles. In that case we might seize at once the Western posts, and the territory on the Lower Mississippi occupied by the Spaniards, and trust to French aid to see us out of the war; if, indeed, war should follow—which, considering the rapid successes of the French arms, Monroe hardly thought likely on the part either of Spain or Britain. The infatuated Monroe was wholly unable to perceive that his proposition tended to put the United States in the position of a humble dependent on France, obliged to follow her fortune in war, and liable to be called upon for an indefinite amount of new loans as the consideration for continued protection.

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This project of purchasing French aid met with no encouragement whatever from the American government. In Randolph's first letter, after the receipt of these dispatches, while deferring a full examination of the matter to a subsequent opportunity, it was briefly stated that the step which Monroe had taken was "viewed as a very strong one." In another letter, shortly after, Monroe was informed that, notwithstanding the rapid successes of France, the course of the government was still steadily directed to the neutrality which it professed; and, therefore, that his step respecting a loan, the more it was considered, the stronger it appeared. Pending more particular instructions, he was reminded that it was "the invariable policy of the president to be as independent as possible of every nation on earth, a policy not assumed now for the first time, but wise at all times, and certain, if steadily pursued, to protect our country from the effects of commotions in Europe."

The French Convention, having received from Monroe satisfactory, though unauthorized assurances as to the disposition of the United States, presently repealed Nov. 18



CHAPTER the provision order, and also the order for the forced sale  
IX. of cargoes. The payment of the debts due for provisions  
1794. was also promised, and indemnity to the sufferers by the  
Bordeaux embargo. But all these promises were promises only; for Monroe himself wrote that unless depreciated assignats were accepted, the prospect of immediate payment was but faint. Nor was actual payment made even in assignats.

Notwithstanding all Monroe's devotion to France, on which point he purported to speak for his country as well as for himself, still the mission of Jay to England furnished to the French government cause of anxiety and suspicion. Monroe had been authorized by his instructions to mention, as the "motives" of Jay's mission, the obtaining "compensation for our plundered property and restitution of the posts;" and also to declare that Jay was "positively forbidden to weaken the engagements between America and France." Upon the strength of these instructions, Monroe undertook to assure the French government that Jay's authority "was strictly limited to demand reparation for injuries;" whence the implication seemed to follow that he had no authority to conclude any thing on the subject of navigation or commerce. This was venturing somewhat rashly, as Monroe very soon found; for, within two or three weeks after his giving these assurances, a report reached Paris that, besides adjusting the other difficulties, Jay had actually concluded a treaty of commerce. Monroe at first attempted to face down this disagreeable report by reiterating his statements as to Jay's instructions, and declaring such a treaty impossible. Being soon formally called upon by the Committee of Public Safety for information, and having that very morning received a short note from Jay announcing that a treaty had been signed, he

was forced in his answer to admit that unwelcome fact. But he added a reminder as to the limitation of Jay's instructions, and an extract also from Jay's letter, which gave assurance of an express clause in the treaty that no part of it should operate contrary to any existing treaties. As to its contents any further, he disclaimed all knowledge. Jay had written that, as the treaty was not ratified, it would be improper to publish it. But Monroe promised, as soon as he obtained any additional information, to communicate it forthwith to the French government.

Monroe now began to be alarmed at the encouragement he had given to the French Committee of Safety to expect a loan from the United States. He was aware, so he wrote to the State Department, that if the adjustment with Great Britain were approved, no such service could be rendered to France. Indeed, if peace continued, he doubted whether the government possessed the constitutional power to render it. He apologized for his former course on the ground of an expected failure of Jay's negotiation, which had, indeed, been suggested in letters from Randolph, and the prospect, as he thought, of obtaining the aid of France, without being obliged to do much in return for it. To relieve himself from embarrassment, he called immediately upon those members of the Committee of Public Safety with whom he had communicated on the subject of the loan. According to the account given in his official letter, he found them well aware of the consequences of the British treaty in that respect, and ready to give assurances that the new minister about to be sent to America should have instructions not even to mention the subject of a loan, should it be disagreeable to the American government. "So this business stands upon a footing, as, indeed, it

CHAPTER IX. always did, whereby, under a particular state of things  
 some benefit may be derived from it, and no detriment

1794 under any." Such was Monroe's confident conclusion—  
 but never was diplomatist more lamentably self-deceived  
 The very circumstance that it went to shut them out  
 from the prospect of an American loan of five millions  
 of dollars to begin with, was quite enough to condemn  
 the treaty in the eyes of the French; and we shall see  
 hereafter with how much pertinacity they adhered to  
 that idea of a loan in which Monroe had so imprudently  
 encouraged them.

The danger of treaty arrangements between the United  
 States and Great Britain seems to have reminded the  
 French government of the expediency of a little respect  
 to treaty stipulations on their part. A new decree  
 1795. speedily made its appearance, giving full force and effect  
 Jan. 4. to those clauses of the treaty of commerce with America  
 respecting contraband and the carriage of enemy's goods  
 —articles hitherto totally disregarded ever since the  
 commencement of the war. Monroe was inclined to  
 take the merit of this decree to himself, but Jay's title  
 to it would seem quite as plausible.

The prevalence of hostilities on the ocean had rendered  
 the communication between Europe and America very  
 precarious; nor was it till after he had acted for six  
 months at his own discretion, and had deeply committed  
 his government on several important points, that Monroe  
 Feb. 9. received the first official responses to his earlier letters,  
 containing the criticisms already quoted as to the parade  
 of his reception and the interpretation he had given to  
 his instructions. To these criticisms Monroe made a  
 very elaborate reply, in which he vindicated his frater-  
 nization with the French as the only means of prevent-  
 ing an absolute breach, which every thing at the time

at his arrival had seemed to portend, and as having produced those concessions on the part of France of which mention has already been made. He even took upon himself the merit of having contributed to the conclusion of Jay's treaty, on the ground that evidences of a good understanding between France and the United States must naturally have operated upon Great Britain to induce a surrender of the Western posts and compensation for injuries, the sole objects, as he presumed, included in that treaty. Independently of that negotiation, so he insisted in this same letter, by his adroitness and success in obtaining the confidence of the French republic, he had secured all that the United States could desire. By "accurate penetration" into the "probable policy" of the French government—a government subject to periodical revolutions at intervals of a few months, in which its policy as well as its administration underwent decided changes—he had become satisfied that, in case we maintained that government's unimpaired confidence, "there was no service within its power which it would not render us, and that upon the slightest intimation." He had "reason to believe" that, previously to the arrival of the news of Jay's treaty, the French government "contemplated to take under its care our protection against Algiers, the expulsion of the British from the Western posts, and the establishment of our right to the free navigation of the Mississippi, to be secured to us in the mode we should prefer;" for all which services, the only return expected was "the aid of our credit to obtain a loan from our banks for an inconsiderable sum, to be laid out in the purchase of provisions within our own country, and to be reimbursed, if possible, by themselves." The news of Jay's treaty had "checked" these beneficent intentions, but had not entirely "changed"

CHAPTER IX. them ; and Monroe still thought, should that treaty fail to be ratified, or should Pinckney's negotiation with Spain 1795. not succeed, that it was yet possible to accomplish the whole through the means of the French government, upon terms which "perhaps" would require no offensive movement, or any act which could rightly subject us to the imputation of a breach of neutrality.

While thus again pressing his favorite scheme of throwing the United States unreservedly into the arms of France, and intrusting the settlement of all our external difficulties to her fraternal care, Monroe was engaged in a curious correspondence with Jay on the subject of the British treaty and its communication to the French government. Shortly after his first note, announcing the signature of the treaty, Jay had again written to Monroe, promising to make to him a confidential communication, in cipher, of its principal heads. Having mislaid the key of the cipher, Monroe sent a Mr. Purviance, a confidential person, to Jay at London, to receive such oral or written communication as he might see fit to make, it being, according to Monroe's letter, of great consequence to American affairs at Paris to remove all doubts on the part of that government as to the contents of the treaty. Nothing, indeed, would satisfy, he added, but a copy of the entire treaty, to which "our ally" thought itself entitled.

While civilly declining to send a copy of the treaty, or to make any communication of its contents except reb. 5. confidentially, Jay took the occasion to read Monroe a much-needed lecture on national independence and the duty of ministers. "You must be sensible," so he wrote, "that the United States, as a free and independent nation, have an unquestionable right to make any pacific arrangements with other powers which mutual

convenience may dictate, provided those arrangements CHAPTER IX. do not contradict or oppugn their prior engagements with \_\_\_\_\_ other states." Upon this point, the only one as to which 1795 France could have any rights, explicit assurances had already been given, to which Jay now added a verbal extract from the treaty, saving all privileges granted by prior treaties to other states. "It does not belong," added Jay, "to ministers who negotiate treaties to publish them, even when perfected, much less treaties not yet completed, and remaining open to alteration or rejection. Such acts belong exclusively to the governments which form them. I can not but flatter myself that the French government is too enlightened and reasonable to expect that any consideration ought to induce me to overleap the bounds of my authority, or to be negligent of the respect which is due to the United States. That respect, and my obligations to preserve it, will not permit me to give, without the permission of my government, a copy of the instrument in question to any person or for any purpose; and by no means for the purpose of being submitted to the consideration and judgment of the councils of a foreign nation, however friendly."

By a minister sincerely desirous to sustain the neutral policy of his government—capable also of the idea, to attain to which would not seem to require any great knowledge of the world or diplomatic experience, that the French, however friendly to the United States, might still, as enemies of England, have purposes of their own to serve—a knowledge of the contents of the British treaty might have been very beneficially employed in preparing the French government, as opportunity offered, for those clauses likely to be least palatable, as tending to place the two belligerents on an equal footing. The communication originally proposed by Jay was no doubt

CHAPTER IX intended for such a purpose. That Monroe might have

no ground of complaint, Jay soon afterward authorized 1795. John Trumbull, the painter, who had acted as his secretary of legation, and who was about to pass through Paris on his way to Strasburg, where one of his great Revolutionary paintings was under the hands of the engraver, to make a confidential communication to Monroe, such as had been originally promised. But this communication Monroe refused to receive, or any other which he was not at full liberty to lay at once before the French government. Thus repulsed, Trumbull communicated to an American merchant at Paris, with intent that he should transmit it to Monroe, a slight sketch of the provisions of the treaty, which Monroe, as soon as he received it, hastened to convey to the Committee of Safety. Baffled by the wise caution of Jay, Monroe and the French government were obliged to wait the publication of the treaty in regular course, not, however, without an attempt to obtain a copy of it from Thomas Pinckney, who passed through Paris on his way to Spain, and upon whom Monroe urged the furnishing the French government with a copy as a means of securing their countenance and aid in his Spanish negotiation. But Pinckney could not be thus induced to a breach of Jay's confidence and a disregard of the duty which he owed to his own government.

As soon as the Senate of the United States had advised the ratification of the treaty, but before the president had decided upon it, or the treaty itself had been made public, a copy had been communicated to Adet, the newly-arrived French minister, the special representative of the party then in power in France, for his observations. Adet complained of the seizure of enemy's goods in American vessels, recognized in the treaty, as a

belligerent right, and of the list of contraband articles CHAPTER  
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agreed to, as granting to England rights which France  
had not; also of the hospitality stipulated for British 1795.  
ships of war, as inconsistent with the restrictions upon  
the enemies of France contained in the French treaty.  
He also urged that the stipulation to make no new treat-  
ies inconsistent with the privileges granted to Great Brit-  
ain would prevent the negotiation of a new commercial  
treaty with France, as she would hardly be disposed to re-  
linquish the privileges which she now enjoyed. In reply  
to these objections, Randolph insisted that, in recogniz-  
ing what Great Britain claimed as her rights, long ex-  
ercised under the law of nations, the United States could  
not be said to grant her any thing to the disadvantage  
of France. If, by a treaty relinquishment of similar  
rights, France had placed herself at a disadvantage, she  
had doubtless considered of that before entering into the  
engagement, and had found indemnification for it, among  
other things, in the counter-stipulation of a right to make  
prize of American goods found on board enemy ves-  
sels, a privilege which, under the law of nations, she did  
not possess. The other two objections were disposed of  
as mistakes of construction. France was expressly se-  
cured in all the privileges she at present enjoyed; and,  
in case of a new treaty, she might still retain these privi-  
leges by leaving the existing treaty so far in force.  
These explanations seemed for the moment satisfactory  
to Adet; at least, he made no immediate reply to them.

Meanwhile, the renewal of the British provision or-  
der increased the anxiety of the French government on  
the subject of the British treaty. That order threat-  
ened to prove a serious obstruction to the supply of  
American provisions, of which, at that moment, France  
stood greatly in need. The hope of such supplies had,



CHAPTER IX. indeed, been a leading motive for the decree abolishing the monopoly of all importations, and again opening for-

1795. eign commerce to individual enterprise ; and Monroe had done his best to promote this object, by reiterated assurances of the vast profits to be made by Americans who might again adventure in French trade. All doubts as to the treaty were, however, soon removed by the arrival of American newspapers, in which it was printed at length. But the change in the government, which was then brewing, and the expectation that the president might yet be frightened by the outcries of the French party in America into a rejection of the treaty, kept the French government for some time quiet.

Monroe, meanwhile, begun to feel the awkward predicament in which he had placed himself. That the administration had injured him was a point upon which he had no doubt ; so he states in a defense of himself which he published after his return, and in which all the papers connected with his mission are given at length. The injury consisted, it is to be presumed, in having continued to persevere in their own policy, and in not having come over to his ; for Monroe seems to have taken it for granted that, in appointing him minister to France, the government had virtually made over to his good discretion all their relations, not with that country only, but with Great Britain also. That the government had compromised their own credit and that of the United States in not standing up to Monroe's unauthorized commitments to France, was equally clear to his mind. Under such circumstances, it was a natural and obvious idea at once to resign. But Monroe had the interests of his country to defend as well as his own honor, and before taking that step—so, at least, he represents the matter in his book—he put to himself this

question, "What was my object in accepting the mission to the French republic, and how, under existing circumstances, can that object best be promoted?" Undoubtedly Monroe's object in accepting the mission had been, as proved by his whole career in it, to thwart the policy of the administration in sending Jay to London, and to force them, whether they would or not, into the embrace of France, if not into war with Great Britain. In that policy he still resolved to persevere, "notwithstanding any personal embarrassments to himself," hoping, no doubt, that the outcry raised against the treaty might yet defeat it, and thus make room for his favorite scheme of subsidizing the aid of France. Meanwhile, his continued residence at Paris, and intimate personal relations with the members of the Committee of Public Safety, might prevent any premature steps on their part by which "the harmony of the two nations might be endangered." He also preferred to put the government to the necessity of recalling him, did they dare to do it, "as the means of furnishing to the world a new datum for estimating their policy;" and because it would leave him "completely at liberty to explain, in every particular, the motives of his own conduct."

The conclusion of a treaty with Algiers independently of French intervention, and the successful result of the Spanish negotiation, had diminished the occasions for French assistance. But in the hope that Jay's treaty might yet be rejected, Monroe again held out the prospect of French co-operation. He was still of opinion that, if "a timely and suitable attempt" were made to engage the support of the French government, it might yet be accomplished upon "fair and honorable terms." But, to bring about this result, peculiar and extraordinary care would be necessary. The person employed

CHAPTER IX. must possess the "confidence" of the French government, and the negotiation ought to be carried on at the same place with that for the general peace, either at Paris or at Basle, where the English were said to have an agent for that purpose. Something more than a mere loan would now be required. "To secure success by embarking this government with full zeal in our behalf, and striking terror into England, it will be necessary," he wrote, "to lay hold of her property within the United States, to take the posts, and even to invade Canada. This would not only secure to us completely our claims upon Great Britain, and especially if we cut up her trade by privateers, but, by making a decisive and powerful diversion in favor of France, promote, and very essentially, a general peace." It would be hard to say from this letter, and, indeed, from the general tenor of Monroe's diplomatic correspondence, whether "the diversion in favor of France" did not lay quite as near his heart as any of the interests specially intrusted to his official charge.

Immediately after the advice of the Senate to ratify the treaty, Randolph had written a long dispatch reviewing the relations between America and France, exploding anew Monroe's extraordinary interpretation of his instructions, and vindicating the honor and consistency of the government in the matter of Jay's negotiation. The immediate occasion of this letter is stated to be "information that the French minister was concerting an attack on the ratification of the treaty," and that sentiments "no less eccentric than fatal to our independence were to be scattered at random from a confidence in the popularity of the French cause." This dispatch, which experienced great detention, the vessel which bore it being carried into England under the pro-

vision order, reached France not long before the arrival of Fauchet, who came home overcharged with indignation, and who was warmly received by his own government. That government was now the famous Directory under the Constitution of the year Three, whose authority had lately been confirmed by the cannonade by which Bonaparte had swept away the insurgent sections—a government in which Monroe expressed great confidence, so distinguished were the Directors for “their talents, integrity, and devotion to the Revolution.”

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Randolph's dispatch above quoted was accompanied, or soon followed, by two or three short letters, in which he spoke of the ratification as still doubtful, and which seem to have revived Monroe's hopes; but about a month after the inauguration of the new French government came a letter from Pickering, formally announcing the ratification of the treaty. As it appeared probable, from Monroe's own letters and from the movements of certain persons in the United States, that unfavorable impressions might be attempted in France, a full statement was given in this letter of the grounds on which the negotiation and the treaty were to be justified. France had been kept as fully informed of the objects and progress of the negotiation as the rules prescribed by custom in such cases would justify or permit. All her rights, whether founded on the law of nations or on her treaties with the United States, remained unimpaired. As related to the article respecting contraband goods, it was undoubtedly the interest of the United States to diminish the list of contraband as much as possible; but a time of war was very unfavorable for that purpose, especially in a case like the present, where the object was to induce a powerful maritime nation to make concessions in favor of a neutral and de-

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senseless commerce. Though the first clause of the article on this subject embraced several kinds of merchandise, such, for instance, as naval stores, which the policy of modern times had admitted by special treaties into the list of free goods, it did not, however, include a single article not recognized as contraband by approved writers on the law of nations. The United States had not relinquished any neutral rights, the exercise of which would have been beneficial to France. The treaty barely recited in its list of contraband what was before so under a law which the United States could not mitigate; and, however desirous they might be that the rigor of that law should be relaxed, yet a recital of it in the treaty was the best that could be done, and was necessary in order to admonish their maritime and commercial citizens of a risk which really existed. The clause securing compensation for goods not generally contraband, but seized as such under particular circumstances, did not admit that provisions were ever properly contraband, unless destined for places invested or blockaded. It only guarded, by the best means in the power of the American government, against the effect of the British doctrine on that subject, which had been and would be strenuously opposed by all reasonable means that might offer. The renewal of the provision order did not grow out of that article, for it included all neutral nations alike; and a similar order had been issued before the treaty existed. The article was expedient for the United States, in order that their commerce might not be left exposed to future spoliations without any definite provision for liquidation and redress. Nor was the operation of it injurious to France, since it would tend to encourage enterprises to supply her with provisions, those engaged in that commerce being secured by it against loss even in case of capture by the British.

The renewal of the provision order, as it had been the CHAPTER IX. ground on which Randolph had opposed the ratification, was much dwelt upon in this dispatch. But that objection was presently removed ~~out~~ of the way, the British government having been induced, by the remonstrances which had accompanied the ratification of the treaty, to recall that order. 1795.

Pickering's letter went on to urge, that whether this pretension or any other on the part of Great Britain was of such a nature that it ought to be resisted by force, was a question which it pertained to the government of the United States alone to decide. They were the exclusive and competent judges of what concerned their interests, policy, and honor, and on those points would never ask the advice nor be governed by the counsels of any foreign nation. Having attained the possession of a free and happy government, and having nothing left of internal enjoyments to hope or desire, solicitude was principally directed to the depredations committed on their commerce. These were great, and were inflicted by all parties to the contest; but commerce, notwithstanding, was lucrative and extensive, though, since the country had no means of protecting it, vulnerable in proportion to its extent.

The degree of security actually enjoyed was well known to depend more upon the common wants of the nations at war than upon any exertions of an offensive nature which could immediately be made by the United States. Indeed, nothing of that kind could be attempted as against Great Britain without a total sacrifice of commerce. Would it not be a preposterous policy to destroy the very object for the preservation of which it was proposed to commence hostilities!

The real operation of a war with England might be

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judged of by the experience of the two last years of the Revolutionary war. A striking defect in the British 1795. naval arrangements in preceding years had left the American ports open for the entry of commerce, for the equipping of privateers, and the introduction of prizes. A different arrangement in the latter period of that war totally changed the scene. The larger privateers were taken; the small privateers were hauled up, as no longer able to cope even with armed merchantmen. The mercantile shipping of the United States fell, at the same time, a sacrifice to the vigilant operations of the British navy. At the present moment, the naval power of England was greater than ever. She had the command of the sea, and was likely to keep it. American commerce might be annihilated in a single year, and thousands of seamen be shut up to die in jails and prisonships. With the cessation of commerce, agriculture, above the supply of domestic wants, would be suspended, or its produce would perish on the hands of the producers. The sources of revenue failing, public credit would be destroyed. The people at large would be plunged from the summit of prosperity into an abyss of misery—a misery, too, sudden, and too severe to be patiently borne. To increase their calamities, or to make them the more sensibly felt, direct taxes must be levied to support the war, and happy would it be if to all these calamities internal dissensions were not added. Such a war would be injurious even to France. It would put an end to American commerce, and by commerce only could America give her any valuable aid. A fruitless diversion on the side of Canada would nearly bound our efforts.

Monroe, in his book, alluded with scorn to these alleged consequences of a war with Great Britain, particu

larly to the "fruitless diversion on the side of Canada." CHAPTER  
Twenty years after, he might have seen in what had IX.  
then just passed before his eyes a remarkable fulfill- 1795.  
ment of all Pickering's prognostications, and unquestion-  
able proof how much sounder than his and that of his  
political associates was the judgment of Washington's  
cabinet.

After the above statement of the grounds on which the policy of the American government in entering into the treaty with Great Britain had been founded and was to be defended, Monroe was specially instructed to urge that the late negotiation had not proceeded from any predilection toward England. There were many causes of difference with that nation, especially the detention of the Western posts, that admitted of no longer delay, while the remembrance of a long, bloody, and distressing war, from which the nation was but just beginning to recover, was enough to cause the possible renewal of it to be most seriously deprecated. The commercial articles, though not unimportant, were, however, a subordinate object, but still not a new one, having been repeatedly urged upon the government, and measures having been powerfully supported in Congress, of which the sole object was to force Great Britain into a commercial treaty. Monroe was to insist upon the friendly disposition of the American government toward France; but, as there was no probability that the United States would become in any way a party to the existing war, he was carefully to avoid any thing which might raise such an expectation in the mind of the French government.

The task imposed upon Monroe by this letter could not but be exceedingly distasteful. Not only were the views he was thus instructed to urge in every respect counter to his own, but he stood personally in a very



- CHAPTER delicate position, liable to be suspected by the French  
IX. government of having been voluntarily or ignorantly  
1795. used, while the English negotiation had been in progress,  
to throw dust in their eyes. Moreover, he was not without his hopes, in which, no doubt, his Virginia correspondents encouraged him, that the treaty might yet be defeated by the House of Representatives. Under these circumstances, he adopted the policy of saying nothing, a policy which he defended on the ground that it was best to leave it to the French government to state their complaints before he attempted to obviate them. So the matter rested for two months or more, when De la Croix, the French minister for Foreign Affairs, took occasion to  
1796. inform Monroe that, since the ratification of Jay's treaty,  
Feb. 15. the Directory regarded the alliance between France and America at an end; that Adet was to return, and a special minister was to be sent out to make this announcement to the American government. Monroe remonstrated against this course, as likely to place the two  
March 8. republics in a hostile position, and, in a special interview with the Directory, professed his readiness to answer all such objections as might be urged against the treaty. In consequence of this interview, Monroe was furnished with a paper, signed by De la Croix, apparently a report to the Directory on the subject of American relations. It charged the United States with the non-execution of treaty obligations in five particulars: taking cognizance of the legality of French captures in case of prizes carried into American ports; admitting into American harbors English ships of war which had made prize of French vessels; refusing to enforce the judgments which French consuls were authorized by the Consular Convention to render in all cases between French citizens; requiring for the legal arrest of deserters from French vessels the

presentation in court of the original register of equipage or shipping paper, notwithstanding the provision in another article of the Consular Convention that all faith should be given to consular copies; lastly, the seizure at Philadelphia of the French national corvette, the *Cassius*, for acts done on the high seas. Two other heads of complaint were added: first, the omission properly to resent the insult of the late attempted seizure of *Fauchet*, and the search of his baggage by a British ship of war within the waters of the United States; and, secondly, the extension given by the treaty with Great Britain to the list of contraband, so that even provisions were included in it—an abandonment of the independence of their commerce inconsistent with the neutrality of the United States, and with their obligations to defend the colonial possessions of France.

To these several charges Monroe made a brief reply. The cognizance claimed of French prizes was only in case of captures within the waters of the United States, or by vessels fitted out within those waters—cases which must, in the nature of things, be excepted from the general terms of the treaty. The treaty prohibited the admission into American ports of armed vessels belonging to the enemies of France having prizes with them, a stipulation fulfilled as far as the limited means of the United States would admit, but which was not understood to extend to the exclusion of British ships of war, merely because at some former time they had made prize of French vessels. An answer as to the alleged breaches of the Consular Convention was promised when the cases should be more specifically stated. Though Monroe probably did not know it, the Supreme Court of the United States had decided that the jurisdiction provided for by the Consular Convention was only in the nature of an

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arbitration, and that the French consuls were not entitled to expect the assistance of the United States in enforcing their decrees. As to the corvette *Cassius*, she had been seized on the charge of having been fitted out at Philadelphia. The insult to Fauchet had been punished as far as could be done by a nation having no fleet—the guilty vessel had been ordered away, and complaint had been made to the British government. As to the provisions of the British treaty on the subject of contraband, the arguments which Pickering had suggested were briefly urged.

No reply was made to this paper, nor was the matter further pressed by Monroe. Both parties, no doubt, were waiting for the rejection of the treaty by the House of Representatives. Instead of this, news presently arrived  
June 25. that the appropriations for the treaty had passed. De la Croix immediately wrote to Monroe to inquire if this information could be relied upon. Monroe replied that he knew no more than was stated in the newspapers, but at the same time expressed his readiness to answer any further objections to the treaty.

7. Another note from De la Croix, reiterating the dissatisfaction of the Directory, announced that they no longer considered themselves bound by the provisions as to neutral rights in their treaty with the United States. In  
July 2. fact, an order had already issued—though no official notice of it had been given to Monroe, to whom, indeed, its existence was even denied—authorizing the ships of war of the Republic to treat neutral vessels in the same manner in which they suffered themselves to be treated by the English, thus again setting aside the stipulations of the treaty with America as to contraband and the carriage of enemy's goods.

In his answer to De la Croix's note, Monroe ventured

to remind him that the United States had also grounds of complaint. That under a decree of the Convention in 1793, in violation of the American treaty, fifty American vessels had been brought into French ports, and their cargoes taken from them, for which no payment had yet been made. That about the same time, and without any motive having ever been assigned for it, more than eighty other American vessels had been embargoed at Bordeaux, and detained there for upward of a year, to the great injury of the owners, who remained as yet uncompensated. That for supplies furnished to the French West Indies, and likewise for supplies sent directly to France, immense sums were due to American citizens, by the non-payment of which many were ruined. He softened matters, indeed, by suggesting that these grounds of complaint were perhaps unknown to the Directory, as the original representations had been made to their predecessors. But a tone so wholly new on his part contributed, perhaps, to that slight and neglect with which thenceforward he began to be treated.

At the same moment that Monroe fell into disgrace at Paris, having wholly failed to bring about that close union with France of which he had held out the promise, the resolution had been taken at home to supply his place by a minister in whose zeal to carry out their views, and in whose faithful co-operation in their policy, the government could place more certain trust. After being declined by Marshall for pressing domestic reasons, this appointment was accepted by Charles C. Pinckney, who presently embarked, carrying with him Monroe's letters of recall. In making this appointment, Washington had been anxious to find a minister to whose political opinions the French could have no special objections, at the same time that he selected a person on whom he could himself confidently rely.

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Washington at first had suggested the idea of sending out a minister extraordinary, as in the case of Jay's appointment to England; but the cabinet were of opinion that, in the recess of the Senate, he had no power to make such an appointment. They all agreed in the policy of recalling Monroe, in order that the government might have some faithful organ at Paris to explain their views, and to ascertain those of the French. There was, indeed, evidence before them that while Monroe's recent correspondence with the State Department had been unfrequent, unsatisfactory, reserved, and without cordiality or confidence, he had been in close communication with the heads of the opposition—of which, in fact, he had all along been more the agent than of the administration which he professed to represent.

Meanwhile, in America, new causes of complaint had been zealously urged by Adet. The British at this time were making great efforts to complete the conquest of the French part of St. Domingo, the defense of which for the Republic had been left almost entirely in the hand of Toussaint and the other black and mulatto generals. Large supplies of provisions had been purchased in America, and horses also, for the British troops, American vessels being chartered for their conveyance, in the expectation that, under the treaty with France, they would be allowed to pass without interruption. Adet repeatedly complained of this, and Governor Wood, of Virginia, undertook to stop a cargo of horses. Orders were sent, however, for the release of the vessel; and Pickering maintained, in reply to Adet, that there was nothing in these sales of which France had any right to complain. Horses undoubtedly were contraband, and, as such, might be confiscated if taken on the voyage; but that imposed no obligation on the American government to prevent their sale or shipment.

Hitherto, though not bound to it by treaty, the American government had permitted the sale of French prizes brought into American ports; but, in consequence of an article of the British treaty, this permission had been discontinued, and a circular to that effect had been sent to all the collectors. This was but placing the two nations on the same footing; yet the prohibition became the subject of warm remonstrances on the part of Adet.

A few weeks after the departure of Pinckney, Adet made a formal communication of the decree of July 2d (14th Messador), already mentioned, of the existence of which, and the extraordinary latitude of interpretation given to it, practical evidence had already been given in the seizure of numerous American vessels in the West India seas. Besides an elaborate defense of that decree, this letter renewed a complaint, already several times before urged, that British ships of war were allowed to recruit their crews by pressing sailors from American vessels. As if to follow up Genet's system of direct communication with the people, independently of the government, this letter of Adet's, at the same time that it was sent to the Department of State, was forwarded also for publication to Bache's Aurora. A few days after, there appeared in the same paper a proclamation or order signed by Adet, calling upon all Frenchmen resident in America, in the name of the French Directory, to mount and wear the tri-colored cockade, "the symbol of a liberty the fruit of eight years' toils and five years' victories;" nor was any Frenchman who might hesitate to give this indication of adherence to the Republic to be allowed the aid of the French consular chanceries or the national protection. The tri-colored cockade was at once mounted, not by the French only, but by many American citizens, who wished to signify in this marked

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CHAPTER manner their devoted attachment to the French republic.  
IX. In this "cockade proclamation," as the Federalists  
1796. called it in ridicule, originated the practice, which in the  
next four years became very common, of wearing cock-  
ades as a badge of party distinction.

Nov. 15. The issue of this quasi proclamation was soon followed  
by a note, simultaneously sent to Bache's Aurora and to  
the State Department, demanding, "in the name of the  
faith of treaties and of American honor, the execution  
of that contract which assured to the United States their  
existence, and which France regarded as the pledge of  
the most sacred union between two people, the freest  
upon earth;" and announcing also, at the same time,  
"the resolution of a government, terrible to its enemies,  
but generous to its allies."

"When Europe rose up against the Republic at its  
birth, and menaced it with all the horrors of famine"—  
such was the impassioned introduction to this remarkable  
state paper, rivaling even Genet's peculiar eloquence,  
and evidently intended much more for the people than  
for the government—"when on every side the French  
could not calculate on any but enemies, their thoughts  
turned toward America, and a sweet sentiment then min-  
gled itself with those proud feelings which the presence  
of danger and the desire of repelling it produced in their  
hearts. In America they saw friends. Those who went  
to brave tempests and death upon the ocean forgot all  
dangers in order to indulge the hope of visiting that  
American continent, where, for the first time, the French  
colors had been displayed in favor of liberty. Under the  
guarantee of the law of nations, under the protecting  
shade of a solemn treaty, they expected to find in the  
ports of the United States an asylum as sure as at home;  
they thought, if I may use the expression, there to find

a second country. The French government thought as they did. Oh, hope worthy of a faithful people, how hast thou been deceived ! So far from offering the French the succors which friendship might have given without compromising itself, the American government, in this respect, violated the obligation of treaties.”

Here followed a summary of these alleged violations, heretofore urged by Adet and his predecessors, and in De la Croix's note to Monroe. It included the circular of 1793, restraining the fitting out of privateers in American harbors ; the law of 1794, prohibiting hostile enterprises or preparations against nations with whom the United States were at peace ; the cognizance of these matters taken by the American courts of law ; and the admission of British armed vessels into American waters. Not content with these tacit derogations of the rights of France, the American government, so Adet asserted, had gone further, and, by a special treaty with Great Britain, had secured her in the enjoyment of all these indulgences ; a negotiation as to which the French government had been misled and deceived by misrepresentations both in America and at Paris, and which had inflicted still further injury upon France by concessions to England on the question of contraband and the conveyance of enemy's goods. The stipulations on these subjects contained in the treaty with Great Britain, Adet chose to represent as commercial favors granted to England ; and as it was provided by the treaty with France that, so far as respected commerce and navigation, she should be admitted to the privileges of the most favored nation, he undertook to justify, on the ground of this provision, the recent French decree authorizing French cruisers to treat American vessels as they suffered themselves to be treated by the British.



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He also announced that the Directory, as a further expression of their dissatisfaction at what they considered equivalent to a treaty of alliance between the United States and England, had sent orders to him to suspend forthwith his ministerial functions, and to return home. But the name of America, notwithstanding the wrongs of its government, still excited "sweet emotions" in the French heart, and this suspension of diplomatic relations was not to be considered as a rupture, but only as "a mark of just discontent," "to last until the government of the United States should return to sentiments and measures more conformable to the interests of the alliance and the sworn friendship between the two nations."

After these preliminaries, Adet wound up with a rhetorical appeal to anti-British feelings, in which the government, as distinguished from the people, was pointedly held responsible for the present state of affairs as between France and America. "Alas! time has not yet demolished the fortifications with which the English roughened this country, nor those the Americans raised for their defense; their half-rounded summits still appear in every quarter, amid plains, on the tops of mountains. The traveler need not search for the ditch which served to encompass them; it is still open under his feet. Scattered ruins of houses laid waste, which the fire had partly respected, in order to leave monuments of British fury, are still to be found. Men still exist who can say, 'Here a ferocious Englishman slaughtered my mother; there my wife tore her bleeding daughter from the hands of an unbridled Englishman!' Alas! the soldiers who fell under the sword of the Britons are not yet reduced to dust: the laborer, in turning up his fields, still draws from the bosom of the earth their whitened

bones, while the plowman, with tears of tenderness and gratitude, still recollects that his fields, now covered with rich harvests, have been moistened with French blood ; 1796. while every thing around the inhabitants of this country animates them to speak of the tyranny of Great Britain, and of the generosity of Frenchmen ; when England had declared a war of death to revenge herself on France for having cemented with her blood the independence of the United States ; at such a moment their government makes a treaty of amity with their ancient tyrant, the implacable enemy of their ancient ally ! O Americans ! covered with noble scars ! O ! you who have so often flown to death and to victory with French soldiers ! you who know those generous sentiments which distinguish the true warrior ; whose hearts have always vibrated with those of your companions in arms ! consult them to-day to know what they experience. Recollect also that magnanimous souls, if they resent an affront with liveliness, know also how to forget one. Let your government return to itself, and you will still find in Frenchmen faithful friends and generous allies !”

This extraordinary diplomatic appeal to the people was no doubt intended to have an effect on the votes of the presidential electors soon to be given, and the result of which was generally regarded as extremely dubious.

Washington's fixed determination to retire from office at the close of his present term, known since the beginning of the year to those in his intimacy, had only become public quite recently by the issues of his famous Sept 13 Farewell Address. That address embodied in its introduction three or four sentences of a draft which Madison had formerly furnished, at Washington's request, just before the close of his first term. The main body of it seems to have been prepared with the aid of a draft re-

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cently furnished by Hamilton, and which had also been subjected to Jay's inspection. Though it contains much advice of general application, almost every line of it may be traced to particular incidents which had occurred during Washington's administration. The maintenance of the Union as "the palladium of political prosperity and safety;" of the Federal Constitution; and of the public credit; were emphatically urged, with solemn admonitions against sectional jealousies and heart-burnings; against combinations and associations to obstruct the laws; and against the baleful effects of party spirit, and of permanent inveterate antipathies against particular nations, or passionate attachments for others.

The policy of an impartial neutrality and of a disconnection from the nations of Europe, so far as existing treaties would permit, together with the dangers of foreign influence, were handled at length. For one nation to look to another for disinterested favors was treated as a folly, "an illusion which experience must cure, which a just pride ought to discard." Whatever might be accepted under that character, the nation must pay for by a portion of its independence, at the same time placing itself in the condition of having given equivalents for nominal favors, and yet of being reproached with ingratitude for not giving more.

A great part of the address had, indeed, so direct a bearing on the present position of the United States with respect to France, that we ought, perhaps, to consider Adet's manifesto, quoted above, so closely following upon it, and given to the public, like the address, through the medium of the newspapers, as intended, in part, to counteract its effect.

The late period at which Washington's intention to retire was announced left but a short time for electioneer-

ing; but the two parties, in anticipation of this event, were already prepared with their candidates. The nominations, indeed, were neither formally made nor officially announced. As yet the letter of the Constitution was regarded, which left the actual selection of persons to be voted for to the judgment of the presidential electors. Yet the members of Congress seem already to have assumed the office, afterward exercised in a more open and formal manner, and maintained for the next quarter of a century, of designating the candidates of their respective parties—a designation to which those chosen as electors very generally conformed.

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The real leader of the Federal party was Hamilton; but the greater age and longer public services of Jay and of John Adams placed them more prominently before the public as candidates for the presidency. On comparison of the personal characteristics of the two men, Hamilton would have much preferred Jay; but the position of Adams was such as to give him a decided advantage. His Revolutionary services were of the first order; his reputation for talents and integrity was of the highest; by his office of vice-president he stood in the line of promotion; and, what was of still greater weight, he was the choice, and, as it were, the representative of New England, which had furnished all along so steady and so principal a support to the federal government.

If one of the two candidates to be voted for was taken from the North, policy required to take the other from the South. Of the limited number of Southern statesmen who had supported federal measures, none stood at this moment more conspicuously before the public than Thomas Pinckney. His success in the Spanish negotiation had gained him credit with the public at large, while he was specially recommended to the esteem and

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gratitude of the Federalists by the frank support which he had given to Jay's negotiation. Indeed, there were  
1796. some, and Hamilton was among the number, who secretly wished that Pinckney might receive the larger vote, and so be chosen president over Adams's head—a result, from the likelihood of Pinckney's receiving more votes at the South, by no means improbable, could the Northern Federal electors be persuaded to vote equally for both candidates.

On the side of the opposition, there was nobody to compete with Jefferson for the post of first candidate. While stimulating Madison to political efforts, Jefferson had suggested that he (Madison) ought to be the candidate of the party; and when Madison returned the compliment, he had written back in the tone of an old man  
1795. in whom ambition was extinct, and who had withdrawn  
April 27. from the world with a fixed and unalterable determination to have nothing more to do with office. Yet, before the election came on, it was very generally understood that if Jefferson were chosen he would not decline to serve. This, however, if we can trust the letter to Madison, was only through fear that, if he withdrew his name, the Republican party might fall into unfortunate divisions.

It was urged in a Richmond newspaper that Virginia, by reason of her superior extent, wealth, and population, and her known republicanism, had a right to furnish a president, and that Jefferson was entitled to the station as a philosopher, a Republican, a friend of civil and religious liberty; attached to the Federal Constitution, but favorable to amendments of it; an enthusiastic admirer of the French Revolution, but without surrendering the independence and self-government of the United States; with a proper sense of the perfidious conduct of Great

Britain, which, however, he desired to counteract, not by war, but by pacific measures more advantageous than the recent treaty ; as a citizen distinguished for diplomatic talents and political sagacity, and possessed of a fortune not less independent than his principles. CHAPTER  
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The candidate of the opposition at the preceding election, as against John Adams, had been George Clinton. Clinton, however, had been recently outshone as a leader of the opposition by Aaron Burr. As Burr had the advantage of being on the spot, and was unrivaled in the arts of personal influence and intrigue, he had been agreed upon by the opposition members of Congress as the second candidate ; but the support which he received was far from being uniform, and, indeed, he was already an object of suspicion at the South, as likely to be a dangerous competitor for the leadership of the Republican party.

The choice of presidential electors was very warmly contested in all the doubtful states. Governor Samuel Adams, brought forward as a candidate for elector in the Boston district, was beaten. Gerry was chosen by the Legislature for one of the districts in which a choice by the people had failed. He voted, however, for Adams and Pinckney, for which he apologized, in a letter to Jefferson, on the ground that to have voted for him would have endangered Adams's election to the office of president, to which Gerry thought him entitled, though desirous to see Jefferson chosen vice-president. After making a choice for those districts in which an election by the people had failed, the Massachusetts Legislature, by joint resolution, authorized the electoral college to fill any vacancies that might occur in their own body. Governor Adams signed this resolution ; but the next day he entered the secretary's office, erased his name,

CHAPTER IX. and sent a message to the Legislature giving his reasons against it. The real reason, no doubt, was, though not stated in the message, that any unfilled vacancy in the Massachusetts college would be so much taken from the Federal strength, and might, in the close division of votes, be decisive of the election. The Legislature, however, expressed their opinion that the governor was too late with his objections, and that his undertaking to alter a record by erasing his name was a proceeding altogether unauthorized. All the states north of Pennsylvania chose Federalists as electors. The choice in Connecticut and New York was by the Legislature. The law of Pennsylvania provided for a choice by general ticket, and the result in that state was thought likely to decide the choice of president. The friends of Jefferson had been very anxious for a choice by districts, which would have divided the votes; but the Federalists, confident in their strength, had refused. Great, therefore, was their chagrin to find that the heavy vote of the trans-Allegany district, and the unexpected majority of two thousand for the opposition in the city and county of Philadelphia, had carried the state against them by a very close vote, only one of the Federal candidates being chosen. It was said that many Quakers voted the opposition ticket through fear of a rupture with France. The law required the returns to be made within fourteen days, when the governor was to proclaim the result, and notify those elected. Had this law been literally complied with, the Federal ticket, notwithstanding an actual majority against it, must have been declared chosen, the returns from several heavy opposition counties being, by accident or design, behind the time. Mifflin, however, again chosen governor at this same election without opposition, chose to interpret the limit

of fourteen days as only a direction to the returning of- CHAPTER  
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 ficers, and to delay his own action till all the returns 1796.  
 were actually in. He argued, and justly—taking the  
 opposite doctrine to that under which Clinton had held  
 for four years the government of New York—that voters  
 ought not to be deprived of their rights on any merely  
 formal and technical grounds. Delaware, and six of the  
 ten Maryland districts were carried for the Federalists,  
 one of them by a majority of four votes only. In Vir-  
 ginia, North Carolina, Georgia, Kentucky, and Tennes-  
 see, the Republican ticket prevailed almost without op-  
 position. The event at last seemed to depend on South  
 Carolina. The electors of that state, chosen by the Leg-  
 islature, were thought likely, as they actually did, to vote  
 for Jefferson and Pinckney, thus taking one candidate  
 from either party—a circumstance which possibly might  
 make Pinckney president.

The result was still unknown when Congress came Dec. 5.  
 together. Several new members appeared in the Senate.  
 Sedgwick and Goodhue, of Massachusetts, both late  
 members of the House, in place of Cabot and Strong, who  
 had resigned; Hillhouse and Tracy, of Connecticut, both  
 also late members of the House, in place of Ellsworth  
 and Trumbull; Isaac Tichenor, of Vermont, in place of  
 Bradley, thus giving a full Federal delegation from that  
 state, and, indeed, from the whole range of states north  
 of Maryland, with the exceptions of Langdon and Burr.  
 Lawrence, of New York, supplied the place of Rufus  
 King, who had gone as minister to England. Richard  
 Stockton, of New Jersey, John E. Howard, of Maryland,  
 and John Hunter, of South Carolina, filled vacancies  
 caused by resignation. Blount and Cooke, from the  
 new state of Tennessee, now also took their seats. In  
 the House, that new state was represented by Andrew



CHAPTER IX. Jackson, whom Gallatin, in his old age, recollected and described as having been a tall, lank, uncouth-looking personage, with long locks of hair hanging over his face, and a cue down his back tied in an eel-skin; his dress singular, his manners and deportment that of a rough backwoodsman. No eye among his associates was prophetic enough, under that rude aspect, to recognize or imagine the future general and president.

The president's speech referred with satisfaction to the continuance of peace on the Indian frontier, and to the occupation by American garrisons of the Western posts, lately given up under the British treaty. The commissions under that treaty on the northeastern boundary and on British spoliations had been already organized. As respected the commission on British debts, no notice had yet been received of the appointment of commissioners on the part of Great Britain. Under the provisions of the Spanish treaty, joint surveyors had been appointed to run the boundary line, and troops had been detached to occupy the posts on the Lower Mississippi to be given up by Spain. Agents had been appointed under the new law for the protection of American seamen against impressment; but it was too soon to judge of the efficiency of that measure. Congress was congratulated on the actual liberation, at last, of the Algerine captives, but with an intimation that further pecuniary provision would be necessary to carry out the treaty. Pending the session, these released captives, sixty in number, arrived at Philadelphia, and were escorted into the city by a great multitude of citizens. A woman darting from the crowd claimed one of the number as her husband, whom she had not seen for fourteen years. Treaties with Tripoli and Tunis were in progress; indeed, one with Tripoli had already been signed

Nov. 1.

by Barlow, though the fact was not yet known in America. CHAPTER  
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The gradual creation of a navy was recommended by 1796. the president as essential to the protection of an active external commerce ; also, national establishments for the manufactory of arms for the public service. It had been found, in the attempts to provide cannon for the frigates and for the new fortifications, that the skill in cannon-founding acquired during the Revolution had already disappeared. A military academy was strongly recommended as a means of preserving and transmitting a knowledge of the art of war, an establishment especially necessary in a pacific nation. Attention was also recalled to an efficient organization of the militia—a recommendation frequently made in previous speeches—as well as to the expediency of further harbor defense.

The president suggested the encouragement of agriculture by the establishment of boards charged with collecting and diffusing information, and enabled by premiums and small pecuniary aids to encourage and assist a spirit of discovery and improvement. He also proposed the establishment of a national university, having among its primary objects education in the science of government. An assimilation of principles, opinions, and manners, by the education together of young men from every quarter of the country, was suggested as one motive to it.

The attention of Congress was also called to the compensation of the public officers, especially in the case of the more important stations. Insufficiency of compensation, making private wealth necessary to supply the defect of public pay, greatly restricted the circle from which choice could be made, thus diminishing the chance of good ones. Besides, it was repugnant to the vital principles of our government virtually to exclude from

CHAPTER public trusts talents and virtue, unless accompanied by  
IX. wealth.

1796. In relation to the extensive injuries recently committed upon American trade in the West Indies by the cruisers and agents of the French republic, and to communications lately received from the French minister, far from agreeable in other respects, and indicating the danger of still further interruptions, the president observed: "It has been my constant, sincere, and earnest wish, in conformity with that of our nation, to maintain cordial harmony and a perfectly friendly understanding with that republic. This wish remains unabated; and I shall persevere in the endeavor to fulfill it to the utmost extent of what shall be consistent with a just and indispensable regard to the rights and honor of our country; nor will I easily cease to cherish the expectation that a spirit of justice, candor, and friendship on the part of that republic will eventually insure success. But, in pursuing this course, I can not forget what is due to the character of our government and nation, or to a full and entire confidence in the good sense, patriotism, self-respect, and fortitude of my countrymen."

After suggesting to the House the expediency of carrying into effect at the present session the provisions discussed during the previous one, for the relief of the finances and the more complete discharge of the public debt, the speech concluded as follows: "The situation in which I now stand for the last time, in the midst of the representatives of the people of the United States, naturally recalls the period when the administration of the present form of government commenced; and I can not omit the occasion to congratulate you and my country on the success of the experiment, nor to repeat my fervent supplications to the Supreme Ruler of the uni-

verse and Sovereign Arbiter of nations that his providential care may still be extended to the United States, that the virtue and happiness of the people may be preserved, and that the government which they have instituted for the protection of their liberties may be perpetual." CHAPTER IX. 1796.

The answer, on the part of the House, was not agreed to without a good deal of debate, in which considerable handle was made by the opposition of an unlucky passage in the original draft alluding to the inhabitants of the United States as "the freest and most enlightened people on earth." So far as related to all the rest of the world, the modesty of the opposition would not have been so greatly shocked; but they were exceedingly distressed at the idea of thus taking precedence of the French republic. After a pretty complete echo of the sentiments of the president, by no means agreeable to the opposition, yet not quite strong enough to satisfy the more ardent Federalists, the answer, as agreed to, was principally occupied with compliments to Washington on the occasion of his approaching retirement. It concluded with the following words: "For our country's sake, for the sake of republicanism, it is our earnest wish that your example may be the guide of your successors, and thus, after being the ornament and safeguard of the present age, become the patrimony of our descendants." This, however, was further than the more zealous of the opposition were willing to go; and a motion to strike out this paragraph received the support of twenty-four members, near a third of the whole number voting. Gallatin, Giles, Andrew Jackson, Livingston, Macon, Swanwick, and Varnum were among the number. Of the twenty-four, eight were from Virginia. Madison, Nicholas, and Page were not prepared to go quite so far; they voted

CHAPTER IX. against the amendment, as also did Claiborne. The other seven Virginia members did not vote. The address did not finally pass without a call for the yeas and nays by 1796. Blount of North Carolina—the same who had been put forward at the previous session to move the resolutions as to the treaty-making power—and who now declared his anxiety to transmit the fact to posterity that he, Thomas Blount, had not been consenting to the address. Twelve members recorded themselves in the negative in Blount's company, among them Giles, Andrew Jackson, Livingston, and Macon.

Dec 23 The state of feeling toward Washington among the more violent part of the opposition may be judged of by the following extract from a cotemporaneous article in the Aurora : “ If ever a nation was debauched by a man, the American nation has been debauched by Washington. If ever a nation was deceived by a man, the American nation has been deceived by Washington. Let his conduct, then, be an example to future ages. Let it serve to be a warning that no man may be an idol. Let the history of the federal government instruct mankind that the mask of patriotism may be worn to conceal the foulest designs against the liberties of the people.” This, indeed, was but a somewhat exaggerated specimen of the abusive articles to be found almost daily in the columns of the Aurora, from the office of which had just issued a most virulent pamphlet, under the form of a letter to Washington from the notorious Thomas Paine, whose natural insolence and dogmatism had now become aggravated by habitual drunkenness. This pamphlet, sent for publication from Paris, had been composed under the roof of Monroe, with whom Paine was residing, having been released from prison at Monroe's intercession. Paine's claim to be an American citizen, though he had

sat in the Convention as a citizen of France, had been made the basis of an application, such as Monroe did not venture upon in Madame La Fayette's case, also a prisoner, and for whom his intervention had likewise been solicited. CHAPTER  
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Nor did Washington's assailants confine themselves to libels. Among other means for destroying his influence was the republication of certain forged letters, originally printed in England in the course of the Revolutionary war, and artfully framed for the purpose of exhibiting Washington as secretly sick of the cause, and opposed to the Declaration of Independence.

These efforts of violent party zeal produced, however, but little effect on the great mass of the people. The state Legislatures, as they respectively met, responded, with but one or two exceptions, in the old tone of confidence and affection, to Washington's Farewell Address. Several of them ordered that paper to be entered at length on their journals, and nearly all—even Virginia included, and that, too, by a unanimous vote—passed resolutions expressing their respect for the president's person, their high sense of his exalted services, and their regret at his approaching retirement from office. The particular friends of Washington in the Virginia House of Delegates wished, indeed, to make the address of that body a little more specific, by expressly ascribing to him "wisdom in the cabinet, valor in the field, and the purest patriotism in both;" but to this amendment the House refused to accede, seventy-four to sixty-nine.

The early part of the session of Congress was consumed in the House in an endeavor to bring into a satisfactory shape a bill for organizing the militia on the basis of a classification into active and reserved corps; but this failed, like all other attempts of the sort before and since.

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The necessity of making some additional financial provisions had called attention to the Revolutionary balances due to the Union from several of the states. Upon the report of the Committee of Ways and Means, to whom that subject had been referred, the House, after a very warm debate, agreed to two resolutions, one requesting the president to inform the debtor states of the amount due, with the interest thereon; the other, agreeing to accept payment in the same sort of stocks and in the same proportions in which the balances to the creditor states had been paid. Much stronger measures had been proposed. New York, the principal debtor state, held in stocks of the United States, proceeds of the sales of her wild lands, of confiscated property, and of army certificates, purchased up at a very low price out of the product of her excise under the Confederation, a sum about equal to the amount due from her to the United States. During the debate in committee, Nicholas proposed to seize upon these stocks by way of payment, and in the House a motion was made to prohibit transfers of stocks held by debtor states. This motion failed to be carried, but the New York Legislature, then in session, took care to guard against the future by ordering an immediate sale of their stocks. By way of retort on the Connecticut members, who were zealous for obtaining payment, Livingston moved for an inquiry into the Connecticut title to the lands of the Western Reserve, lately sold by her, and of which the settlement was now commencing; but this motion was laid on the table, without any action on it.

In obedience to a resolution of the preceding session, the Secretary of the Treasury had sent in a very elaborate report on the state of the finances. According to his calculations, allowing \$2,700,000 for the annual

current expenses, independent of the public debt, and taking the existing revenue at \$6,200,000, to enable the treasury to meet all the demands upon it as they became due, including the temporary loans and the installments of the foreign debt, there would be needed, during the next three years, the annual additional sum of \$1,229,000. This amount he proposed to raise by a direct tax upon lands, houses, and slaves, upon which subject very elaborate calculations were submitted. As to this tax, there was a good deal of maneuvering. The commercial representatives were generally in favor of it, on the ground that commerce was sufficiently burdened already, the average rate of duties amounting to sixteen per cent. on the whole amount of imports. A revenue exclusively from duties on imports was, they argued, too uncertain and fluctuating, and too much at the mercy of foreign interference. The bulk of the House were little disposed to lay a tax likely to be so unpopular as a direct one on land; yet the opposition were inclined to force the Federalists to adopt it for that very reason; or, if they took the responsibility of defeating it, to oblige them to assume, at the same time, the responsibility of leaving the wants of the government unprovided for. After a very long debate in Committee of the Whole, resolutions were carried in favor of a direct tax; but in the end the bill failed, and, as a substitute for it, there were levied, on Wolcott's suggestion, additional duties of half a cent per pound on brown sugar, two cents per pound on bohea tea, one cent per gallon on molasses, and upon velvets and velveteens, muslins, and other white cotton goods, an additional two and a half per cent. ad valorem, thus raising the duties on these articles to the following rates: brown sugar, two cents; bohea tea, twelve cents; molasses, four cents; velvets

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CHAPTER and cotton goods, twelve and a half per cent. ad valorem.  
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1797. The favorite scheme of the opposition was, instead of increasing the revenue, to diminish the expenditure. They labored very hard, though without success, to reduce the army from four to three regiments, and to stop the equipment of the three frigates. Advantage was taken of the death of Wayne to abolish the major generalship, the command of the army thus devolving on Wilkinson, the brigadier general. A bill was also passed to disband the two companies of dragoons; but upon this bill the president placed his veto, as he considered the dragoons essential to the efficiency of the service on the frontiers. This state of things was not very favorable to the increase of salaries which the president had recommended. A bill passed the Senate adding \$5000 to the president's salary, \$2000 to that of the vice-president, with an increase of about a third in the salaries of the executive officers, and in the pay of members of Congress. But this bill failed in the House; and the only increase actually made was in the salary of the Attorney General, raised to \$2000, and in the pay of some of the revenue officers. The appropriations for the service of the current year amounted to about \$2,500,000, including \$14,000, in addition to the proceeds of the sale of the old furniture, for refitting the president's house; \$280,259 for the balance due on the Algerine treaty, with \$96,246 in addition, for two years' tribute under it; \$50,000 for expenses in prosecuting appeals in British prize courts; and \$145,550 for militia service in former years on the Southern frontier.

The result of the presidential election not only evinced the close balance of parties, but served also to show their sectional distribution, such as had prevailed ever since

the first organization of the government, and against the dangerous consequences of which Washington's warning voice had been raised in his Farewell Address. CHAPTER  
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The whole number of electoral votes was one hundred and thirty-eight, making seventy necessary to a choice. Adams received seventy-one, including all those east of Pennsylvania, the three votes of Delaware, seven in Maryland (one of the electors of that state voting for Adams and Jefferson), and one from each of the states of Pennsylvania, Virginia, and North Carolina. Jefferson received sixty-nine votes—four in Maryland, those of Pennsylvania, Virginia, and North Carolina, except one in each state, and the entire vote of South Carolina, Georgia, Kentucky, and Tennessee. Though Pinckney gained eight votes upon Adams in South Carolina and one in Pennsylvania, yet he lost eighteen in New England, and three more in Maryland, withheld from him lest he might be chosen over Adams's head. His votes amounted to fifty-nine. Burr received thirty votes—thirteen in Pennsylvania, three in Virginia, six in North Carolina, and the entire vote of Kentucky and Tennessee. Forty-eight votes were scattered among various candidates, of which Samuel Adams received fifteen, Ellsworth eleven, George Clinton seven, and Jay five. The votes having been opened and declared in presence of the two houses, the vice-president, after a short pause, rose and proclaimed John Adams and Thomas Jefferson president and vice-president of the United States for four years from the fourth of March ensuing, to which announcement he added the following characteristic invocation: "And may the Sovereign of the universe, the ordainer of civil government on earth for the preservation of liberty, peace, and justice among men, enable them both to discharge the duties of those offices

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ance !”

1797. The serious objections which existed to the mode then in force of choosing president and vice-president—two persons being voted for by each elector, without any designation of the particular office for which either was intended—had been made abundantly evident during the late election. A resolution for amending the Constitution in this particular, so as to allow the electors to designate the candidates for either office, was brought forward by Smith of South Carolina. But it required further and more complete experience of the evil to stimulate action for its removal.

Jan. 19. Somewhat earlier in the session, the president had caused to be laid before Congress Pickering's dispatch, forwarded to Pinckney at Paris, in reply to Adet's recent complaints. To this was added a large collection of supplementary papers, containing the greater part of the correspondence of the government with Fauchet and Adet. It appeared from these documents, which were ordered to be printed, that Adet had seriously urged, among his other complaints, that the Americans had made a treaty with Algiers without waiting for French intervention ; that the French flag presented to Congress by the Directory had been hidden away among the archives, instead of being suspended in the hall of the House of Representatives ; and that the American government allowed to be published certain Almanacs or Registers, in which the minister from Great Britain was placed before those of France and Spain, which latter country had recently become the ally of France.

Feb. 27. Toward the close of the session, a report from the Secretary of State made a full exhibit of the wrongs inflicted by the French on American commerce. Besides

particular instances of hardship and suffering, it appeared that Skipwith, who had been appointed consul general on Monroe's recommendation, had presented to the French government no less than a hundred and seventy claims, many of them for provisions furnished, a large part of which had been examined and allowed; also, claims for a hundred and three vessels embargoed at Bordeaux, and for which indemnity had been promised, though in neither case had any thing been paid. To these were to be added enormous depredations then going on in the West Indies. Victor Hughes, still in command at Guadaloupe, had issued three decrees of his own, one declaring all vessels with contraband articles on board good prizes, no matter whither bound; a second confiscating the cargoes of all neutral vessels bound to or from British ports; and a third subjecting to like seizure all vessels bound to any Dutch or French settlements in the possession of the British, or cleared out for the West Indies generally. The same policy had been adopted by the agents of the Directory on the coast of St. Domingo. In their correspondence with their own governments, they frankly acknowledged that, having no other resources, their administration, during the last three months of the year just expired, had been wholly supported, and private individuals enriched, by the captures made by eighty-seven privateers employed in cruising against American commerce.

Not only were American vessels captured; their crews were often treated with great indignity, and even cruelty. Bitter complaints were made of Barney, then in the West Indies with his two frigates. He was accused of having treated with scornful indifference and neglect his fellow-citizens brought in as prisoners by the French privateers, and even of having shown his contempt for

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CHAPTER IX. his country by hoisting the American ensign union down  
Yet, when he arrived in the Chesapeake for the purpose  
1797. of learning and carrying to France the result of the presidential election, though he boasted of having in his pocket the orders of the French Directory to capture all American vessels, and declared that if Jefferson was not chosen president war would be declared by France within three months, he was not the less, on that account, honored and feasted by infatuated politicians who read the Aurora and believed Washington to be a traitor!

News had been received of Pinckney's arrival at Bordeaux, where his reception had been cordial, and whence he had hastened to Paris; but the Aurora, which seemed as much the organ of the French Directory as of the American opposition, already foretold that he would not be received.

Such was the doubtful state of foreign relations when Washington retired from the administration. Encouraged by the accession of Spain to their alliance, and by the victories of Bonaparte in Italy, the French Directory grew every day more insolent. What was still more alarming, they seemed to be countenanced in their complaints and demands not merely by the Democratic clubs and the more violent enthusiasts, but by a great and formidable party, which had only failed by two votes of giving a president to the Union.

END OF VOL. I.











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